

Pickering (T.)

LETTER

FROM THE

SECRETARY OF STATE

TO

CHARLES C. PINCKNEY, Esq.

IN ANSWER TO THE

Complaints of the French Minister

AGAINST THE

GOVERNMENT OF THE UNITED STATES,

CONTAINED IN HIS

NOTES TO THE SECRETARY OF STATE,

Dated the 27th of October, and 15th of November, 1796.

NEW-YORK:

Printed by HOPKINS, WEBB & Co. No. 40 Pine-street.

—1797—

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TO

CHARLES C. RICHMOND, JR.

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Complaint of the French Minister

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GOVERNMENT OF THE UNITED STATES



NOTES TO THE SECRETARY OF STATE

Received of Charles C. Richmond, Jr.

NEW YORK

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LETTER, &c.

Department of State, January 16, 1797.

SIR,

IN my letters of the 5th and 26th of Nov. I sent you two Notes from Mr. Adet, the Minister of the French Republic to the United States; the former dated the 27th of October, and the latter the 15th of November last; and my answer to the first. The latter note embracing numerous topics of complaint, and going as far back as the year 1793, required a particular examination of all the transactions of our government from that time to the present. The other indispensable duties of the office prevented my entering on this examination as early as I had expected, and the current business has retarded the pursuit. The result of this examination I am now, by the direction of the President of the United States, to communicate to you. This history of our affairs you will find supported by documents, many of which were delivered to you at your departure, and the residue will be herewith transmitted. The remarks and reasonings on facts you will duly appreciate; and, from the whole joined with your own observations, you will be enabled, it is believed, to vindicate the United States, and to demonstrate their impartiality as a neutral nation, their fidelity in the observation of treaties, and their friendship as an ally.

The discussion on which I am entering will involve much repetition; for the general questions and particular cases grouped together in the minister's last note, have been subjects of controversy and correspondence from May, 1793, to this day. Some other points have indeed been contended for, which the minister has now passed without notice. Why they are omitted I know not; for in these cases the United States were as positively charged with violating treaties as in those which he has been pleased now to detail. Some of them it may be found proper to introduce, to render less imperfect the view of our relations to France.

The complaints of the French Minister against the United States have reference to three principal subjects. 1st. To the abandonment of their neutral rights to the injury of France, in not maintaining the pretended principles of the modern law of nations, *that free ships make free goods*, and that timber and naval stores, for the equipment and armament of vessels, are not contraband of war.

2d. To violations of our treaties with France, even in their letter.

3d. To the treaty of Amity and Commerce between the United States and Great Britain; which he alledges "deprives France of all the advantages stipulated in a previous treaty." A fourth complaint is truly ingenious. The fortune of war has constrained some of the belligerent powers from enemies, to become her allies; and if the alledged aban-

donment of the rule of the modern law of nations, in its consequences, works an injury to those allies, from that moment France is also injured. Perhaps it will be in time to notice this last charge when the allies themselves complain; if the answer to the first, involving the same principle, should not render such notice altogether unnecessary.

I shall now present to your view those facts and observations which will prove, we conceive, that the minister's complaints are without any just foundation.

Under the first charge, That we have not maintained, as we ought to have done, our neutral rights, it is alledged:

1st. That the position, *that free ships make free goods*, is an established principle of the modern law of nations, and that Great-Britain, by capturing French property on board our vessels, has violated our neutral rights; and that unless we compel Great-Britain to respect those rights, France will be justified in violating them.

Not to remark on the singular reasoning, That if one warring power commits an act of injustice towards a neutral and innocent nation, another warring power may lawfully commit the like injustice, we may ask what authority is adduced, to shew that the modern law of nations has established the principle, *That free ships make free goods?* Vattel says positively, that "effects belonging to an enemy found on board a neutral ship, are seizable by the rights of war." Agreeably to this long established rule of the law of nations, France herself, in her marine laws, has directed that *the merchandizes and effects belonging to her enemies, which shall be found on board neutral vessels, shall be good prize*. By a former law, indeed, the neutral vessels themselves, as well as the effects of her enemies on board, were declared to be good prize. Valin remarks, however, that this regulation was peculiar to France and Spain; and that elsewhere the goods of the enemy were alone subjected to confiscation. And in the treaty of France with the city of Hamburg, in 1769, it was stipulated that "all effects, provisions and merchandize whatsoever, belonging to her enemies, and found on board the vessels of Hamburg, should be confiscated."

Mr. Adet remarks, that one of his predecessors, in July, 1793, applied on this subject to the government of the United States, but was unsuccessful. He must refer to Mr. Genet's letter to Mr. Jefferson, dated July 9, 1793, [the subject was resumed in terms still more extraordinary in his letter of July 25th, 1793,] to which Mr. Jefferson answered on the 24th, declaring "his belief that it cannot be doubted, but that, by the general law of nations, the goods of friend found in the vessel of an enemy are free, and the goods of enemy found in the vessel of a friend are lawful prize. It is true that sundry nations, desirous of avoiding the inconveniences of having their vessels stopped at sea, ransacked, carried into port and detained, under pretence of having enemy goods on board; have, in many instances, introduced, by their special treaties, another principle between them, that enemy bottoms shall make enemy goods, and friendly-bottoms friendly goods—but this is altogether the effect of particular treaty, controlling, in special cases, the general principle of the law of nations, and therefore taking effect between such nations only as have so agreed to control

it." And it is plain, that it was to avoid the inconveniences resulting from this general rule of the law of nations, that France and the United States stipulated, in the 23d article of their commercial treaty, "That free ships should give freedom to goods; and that every thing should be deemed free which should be found on board the ships belonging to the subjects of either of the contracting parties, although the whole lading, or any part thereof, should appertain to the enemies of either, contraband goods being always excepted." It is also plain that this stipulation was intended to operate (indeed it was its sole object, and otherwise could have no operation at all) when one of the parties should be at war with a nation, or nations, with whom the other should be at peace. France, therefore, has now no right to complain if the goods of her enemies find protection on board American ships, or to pretend, that in order "to restore the balance of neutrality to its equilibrium," she may seize on such goods: the just equilibrium between her and the United States will be restored when we are at war and she at peace; at which time the goods of our enemies will find protection on board the vessels of her citizens.

2d. It is alledged, that we have abandoned the modern public law on contraband, and, by our treaty with Great-Britain, *granted* to that power exclusively the free carriage of articles for the equipment and armament of vessels.

Here, as in the former case, the question recurs, What is the law of nations on the point in dispute? Vattel defines contraband goods to be "commodities particularly used in war—such are arms, military "and *naval* stores, *timber*, horses, and even provisions in certain junctures, when there are hopes of reducing the enemy by famine." In the treaty between France and Denmark, concluded on the 23d of August, 1742—"Tar was declared contraband, together with rosin, sails, hemp, cordage, masts, and timber for ship-building." "Thus, on this account (says Valin) there would have been no cause for complaining of the conduct of the English, if they had not infringed particular treaties; for of right these things are now contraband, and have been so since the beginning of this century, which, however, was not the case formerly." "The modern public law on contraband," mentioned by Mr. Adet and his predecessor, probably refers to the principles declared by the armed neutrality, during the American war. This transaction is too remarkable to be passed unnoticed.

During that war, Great-Britain and the other belligerent powers, exercising the rights assured to them by the law of nations, made prize of enemies property on board neutral vessels, and of contraband goods belonging to neutrals. Eager, as neutral nations must be, to seize the opportunity which war presents, of becoming the carriers for the belligerent nations, where ships and mariners are wanted for military operations, it was perfectly natural that the former should desire to establish as a rule, that free ships should make free goods; or, in other words, that neutral bottoms should protect the goods on board, to whomsoever these belonged; and it was equally natural for them to desire to diminish the list of contraband. In respect to the latter, it must have been particularly interesting to the three northern maritime

powers, from whose dominions chiefly the other maritime nations of Europe received supplies of timber and naval stores, to strike these from the list of contraband, or by some means to exempt them from capture.

With these dispositions, the empress of Russia, in February, 1780, made public the principles on which she would maintain the commerce of her subjects. It is necessary here to recite only two of them. 1st. That all the effects belonging to subjects of the nations at war should be free on board neutral vessels; contraband goods excepted. 2d. That the articles of contraband, should be regulated by the 10th and 11th articles of her treaty of commerce with Great-Britain, extending the regulations of those articles to all the belligerent powers.

To enforce the observance of these principles, she gave orders for equipping a considerable part of her marine.

In July of the same year, Denmark acceded to the principles of the armed neutrality, and entered into a convention with Russia, for maintaining them, assuming for her rule in determining what articles should be deemed contraband, her treaty of commerce with Great-Britain, concluded the 11th of July, 1670. In the third article of this treaty, the description of contraband goods is in general terms: "Any provisions of war, as soldiers, arms, machines, cannon, ships, or other things of necessary use in war." But by a convention concluded at London on the 4th of July, 1780, between Great-Britain and Denmark, "to explain the treaty of commerce of 1670, between the two powers," the articles deemed contraband are particularly enumerated, and among them we see "timber for ship-building, tar, rosin, copper in sheets, sails, hemp and cordage, and generally whatever serves directly for the equipment of a vessel, unwrought iron and fir-planks excepted." It is remarkable that these are the very articles admitted as contraband in the 18th article of our treaty of commerce with Great-Britain, and for which admission Mr. Adet declares, "all the commercial relations between France and the United States are entirely broken."

But it is further to be noticed, that this convention between Russia and Denmark, concluded in the midst of the American war, for maintaining the principles of the armed neutrality, and to which other European powers acceded, is explicitly declared, in the 9th article,* to have been concluded and agreed on *for the time that war should last*;† though it was to serve as a basis to future engagements, which circumstances might render necessary, on account of new naval wars in Europe. And with the latter view, the king of Sweden manifested the utmost solicitude lest the war should be closed without the intervention of the neutral powers. He therefore was urgent that the empress, with all the parties to the maritime convention,‡ "should propose to the belligerent powers the establishing of a congress, in which the different concerns, both of the powers at war and of the neutral states, should be examined and terminated." And these concerns he afterwards mentions to be "the pacification, and the settling of a mari-

* Hist. Armed Neutrality, page 77.

† Martin's Treaties, volume 2, page 103.

‡ Hist. Arm. Neu. p. 147, 150.

time code of laws; objects truly important, and meriting all the solicitude manifested on the occasion by the king.

But these steps of the king of Sweden serve as additional proofs that the principles of the armed neutrality were not considered by the parties to the maritime convention, as sanctioned by the existing law of nations. For permanently to establish those assumed principles, by introducing them into a maritime code, was obviously the influential motive with the king for desiring a congress, at which such a code might be settled with the assent of all the nations of Europe. But this project did not succeed: no congress was formed: the belligerent powers made peace at different periods, and with that war ended the maritime convention. This no nation has more reason to regret than our own, as well because the principles in question respect some very valuable portions of our exports, as because our disposition and our policy, preserving us in peace such an extended liberty of commerce, would prove highly advantageous to us as carriers for the powers at war.

We have seen, then, that the law of nations, the marine laws of France, her own treaties, as well as those of other nations, and even the system of the armed neutrality, incontestibly establish these principles; that enemies goods on board neutral vessels, are rightful subjects of capture and condemnation; and that timber and other articles, for the equipment and armament of ships of war, are contraband; and, therefore, that the admission of these principles, in the treaty between the United States and Great-Britain, not being a grant to her of any right (for in what sense could we be said to give what she before possessed?) furnishes no just ground of offence to France. In what sense too can the United States be said to have "*refused* to other nations a right" which they and we voluntarily and mutually agreed to *renounce*? Or how are we chargeable with "*partiality* in favor of England," because we do not take arms to *compel* her also to *renounce* it?

But Mr. Adet, still resting on the idea that not to *compel* Great-Britain to *renounce*, is to *grant* her a *right*, seems to imagine that we shall attempt to obviate his complaints, by saying, "That France having the right, by her treaty of 1778, to enjoy all the advantages in commerce and navigation, which the United States have granted to England, is not injured by the stipulations of the treaty of 1794, (with Great-Britain,) relative to contraband of war; as they become common to her."

—But we shall say no such thing. The 2d article to which he refers has no relation to this subject. Had we *granted* any particular *favor* to Great-Britain, or any other nation, in respect to commerce and navigation, we readily admit that by this article France would be immediately entitled to the same. But in regard to contraband of war, *we have granted nothing*, and therefore, under that article, *France can claim nothing*.

Under the influence of present and temporal interests, the very *nature* of the stipulations between France and the United States on the subject of free commerce, and the limitation of contraband, seems to be forgotten. They took for the basis of their treaty, "the most perfect equality and reciprocity"—would they then conspire to their

own hurt? Would they voluntarily and mutually stipulate for *injuries*? Or for *advantages*? Certainly the latter; and both considered the agreement reciprocally *advantageous*, which secured to each, in its turn, the freedom of commerce provided by the rules, that free ships should make free goods,—and that timber and naval stores should be excluded from the list of contraband.

Connected with this subject is what concerns the article of *provisions*. Mr. Adet says, that “after having assured to the English the carriage of naval stores, the federal government *wished* to assure to them that of meals; in a word, *it desired to have commerce only with England*. Thus it stipulates, by the 18th article, that the American vessels laden with grain, may be seized under the *frivolous pretext*, that it is extremely difficult to define the cases wherein provisions and other articles, which are generally excepted, could be classed in the list of contraband of war.”

There are so many extraordinary assertions in Mr. Adet's notes, those, in the above paragraph, excite no surprize. The federal government is constituted of citizens who have a common interest with their fellow-citizens of the United States. That common interest has a peculiar relation to commerce, on the freedom and extention of which the public revenue and the general prosperity of our country chiefly depend. Will it then be believed, that the government *wished* this commerce to be *restrained*, particularly the commerce in *meals*, which compose the most valuable part of our exports? Especially will it be believed, that the government *desired* that our citizens might have commerce *only with England*? Let the general sense of our fellow-citizens answer these charges. Let the great mass of our commercial brethren answer; they whose enterprize traverses every sea, and explores every region of the globe, to extend their gainful trade; citizens, whose commercial adventures to France and her colonies, have risen annually to many millions; adventures by which many have hazarded their credit and their fortunes. Yet, among all our citizens, none have been more solicitous to form a commercial treaty with Britain; none more decided in approving that which has been made.

For the reasoning of our own government on this subject, I beg leave to refer you to my letter of September 12th, 1795, written, by the President's direction, to Mr. Munroe. Therein it was attempted to show the *necessity* and our *right* of forming that treaty with Great-Britain; and I hope it will appear to you, that the conclusion is there fairly drawn, that even the 18th article, as it respects provisions, would operate favorably to France.

Before the treaty with Great-Britain, her cruizers captured neutral vessels bound to France with provisions. She asserted, that in certain cases, provisions were contraband of war; consequently, that she might lawfully capture and confiscate such provisions. We opposed the principle and the practice. Britain insisted on her right. In this dilemma it was agreed by the treaty, that whenever provisions, becoming contraband by the law of nations, should be captured, they should be paid for with a reasonable mercantile profit. This stipulation, without admitting the principle, for securing the American mer-

chants from loss in case of capture, would certainly tend to promote, rather than to discourage adventures in provisions to France.

But as this treaty has been the subject of serious complaint on the part of France, it is important to inquire with what foundation the complaint is made.

I might pass over the unworthy insinuations of the minister, that the treaty was entered into by us, *in order to assure advantages to the English, and to furnish our own government with a reply to the claims of France, and peremptory motives for refusals to accede to them; that the true object of the negotiations was incessantly disguised under specious pretexts, and covered with the veil of dissimulation.* These insinuations have been indiscreetly addressed to the people of the United States. They will gain no belief. It may, however, be useful for you to be truly informed on this subject.

The President's message to the Senate on the 16th of April, 1794, does not declare, (as Mr. Adet asserts) "that Mr. Jay was sent to London *only* to obtain a redress of wrongs." The President says, that Mr. Jay's mission would announce to the world, "a solicitude for a friendly adjustment of our complaints," and that "going immediately from the United States, such an envoy would carry with him a full knowledge of the existing temper and sensibility of our country; and thus be taught to *vindicate our rights* with firmness, and to *cultivate peace* with sincerity."—And shall the pursuit of either of these objects be denied to us? What were our complaints? The most urgent regarded the spoliations on our commerce, and the inexecution of the article of the treaty of peace respecting the posts. With the latter was connected the Indian war, with which we had been harrassed for so many years; and with the former, the injury or ruin of our merchants, and the consequent extensive damage to agriculture. These being the most prominent objects of the mission, were, of course, most observable, and most talked of; and without them the mission probably would not, at that time, have been contemplated. But had we no other "complaints?" Did not the impressment of our seamen, like the spoliations on our commerce, excite an universal complaint? Had we never manifested our uneasiness at Great-Britain's avoiding a commercial treaty? Was it not even a subject of complaint and reproach? Was not the inducing her to enter into such a treaty the object of divers measures agitated in Congress? Had not a commercial treaty with Great-Britain been earnestly sought for from the conclusion of the war to the time of Mr. Jay's mission? How also could Mr. Jay, after adjusting the primary objects of his mission, better prove the sincerity of our pacific disposition, and more effectually "*cultivate peace,*" than by forming arrangements calculated to extend and protect our trade, to promote good neighbourhood, and a friendly and mutually beneficial intercourse; by prescribing a previous demand of justice and satisfaction to hasty reprisals, which naturally lead to war; and by agreeing on other regulations to prevent disputes, or to adjust them when they should arise? All these objects then, and whatever else would be the means of "*cultivating peace,*" were clearly comprehended in the President's message.

But Mr. Adet says, "that Mr. Jay's negotiation was enveloped from its origin in the shadow of mystery." And to whom was our government bound to unveil it? To France, or to her minister?—Mr. Adet should answer; or not have complained. And was it for this, to make us a dependence on the French empire, that our alliance was formed? Did we stipulate to submit the exercise of our sovereignty (if it is not a contradiction in terms) to the direction of the government of France? Let the treaty itself furnish the answer.* "The essential and direct end of the present defensive alliance, is to maintain effectually the liberty, *sovereignty, and independence, absolute and unlimited, of the said United States, as well in matters of government as of commerce.*" So, likewise, the treaty of amity and commerce in its preamble, declares, that his most Christian Majesty and the United States, willing to fix the rules which ought to be followed relative to the correspondence and commerce which they desire to establish between their respective countries, have taken, "for the basis of their agreement, the most perfect *equality and reciprocity,*" "and reserving withal to *each party, the liberty of admitting, at its pleasure, other nations, to a participation of the same advantages.*" Corresponding with this declaration in our treaty of amity and commerce with France, is the declaration of the Marquis de Noailles, her ambassador at the court of London, on the 13th of March, 1778, five weeks after the treaty was signed. Some passages in this declaration are so pertinent to the subject in discussion, I shall quote them at length.

"The undersigned ambassador of his most Christian Majesty, has received express orders to make the following declaration to the court of London."

"The United States of North-America, *who are in full possession of independence,* as pronounced by them on the 4th of July, 1776, having proposed to the king to consolidate, by a formal convention, the connection begun to be established between the two nations, the respective plenipotentiaries have signed a treaty of friendship and commerce, designed to serve as a foundation for their mutual good correspondence."

"His Majesty being determined to cultivate the good understanding subsisting between France and Great-Britain, by every means compatible with his dignity, and the good of his subjects, thinks it necessary to make this proceeding known to the court of London, and to declare, at the same time, that the contracting parties have paid great attention *not to stipulate any exclusive advantages in favour of the French nation, and that the United States have reserved the liberty of treating with every nation whatever upon the same footing of equality and reciprocity.*" Why, after all this, do we hear from Mr. Adet the complaint, that the negotiations of the British treaty were secretly conducted? In other words, that in exercising their absolute and unlimited rights of "government and commerce," the United States did not lay open to the French minister, or his government, the instructions to *our* envoy, for settling *our own* disputes, and *regulating our own commerce* with Great-Britain? So far as candour and friendship required, a communication was made to

* Treaty of Alliance, Art. 2.

the French minister. He was officially informed, "that Mr. Jay was instructed not to weaken our engagements to France." This instruction was obeyed; Mr. Jay having taken care to insert in the 25th article of the treaty, this explicit stipulation, that "nothing in this treaty contained shall be construed or operate contrary to former and existing public treaties with other sovereigns or states."

The government gave a further proof of its candour and friendship, by communicating to the French minister the *treaty itself*, prior to its ratification, "in order to enable him to make such observations thereon as he might judge proper." These observations you will see in Mr. Adet's letter to the secretary of state, of June 30th, 1795; and the refutation of his objections in the secretary's answer, dated the 6th of July following.

With these facts in view, facts of which the chief are drawn from our treaties with France, and from her own acts and laws, what opinion is to be formed of Mr. Adet's declaration, "That the Executive Directory regards the treaty of commerce concluded with Great-Britain as a violation of the treaty made with France in 1778, and equivalent to a treaty of alliance with Great-Britain?"

I will now advert to the charge, "That far from offering the French the succours which friendship might have given without compromising it, the American government in this respect violated the letter of treaties."

As far as I can discover, the latter part of this charge is rested wholly on the 17th article of the commercial treaty; which, therefore, it will be necessary to examine. The stipulations are mutual; but the examination will be simplified by considering their application to France alone. The 17th article then declares—

1st. That the ships of war and privateers of France may freely carry the ships and goods *taken from their enemies* into the ports of the United States, without being obliged to pay any fees to the officers of the admiralty or any other judges.

2d. That such prizes are not to be arrested or seized when they enter the ports of the United States.

3d. That the officers of the United States shall not make any examination concerning the lawfulness of such prizes—but,

4th. That they may hoist sail at any time, and depart and carry their prizes to the places expressed in their commissions.

5th. That, on the contrary, no shelter or refuge shall be given in the ports of the United States, to such as shall have made prize of the subjects, people or property of France; but if such shall come in, being forced by stress of weather, or the danger of the sea, all proper means shall be vigorously used, that they go out and retire from thence as soon as possible.

It will also be convenient here to notice the stipulations contained in the 22d article. These are,

1st. That foreign *privateers* not belonging to French subjects or citizens, having commissions from any other prince or state in enmity with France, shall not fit their ships in the ports of the United States.

2d. Nor sell their prizes, nor in any other manner exchange their ships, merchandizes, or any other lading:

3d. Nor purchase victuals, except such as shall be necessary for their going to the nearest port of the prince or state from which they have commissions.

The cases that have occurred in the course of the present war in relation to our treaty with France, particularly the 17th and 22d articles just mentioned, have led to numerous discussions, in which several points have been deliberately settled, either by legislative or executive acts, or by judicial decisions.

The first important executive act was the proclamation of neutrality by the President of the United States. This was issued on the 22d of April, 1793.

At the next meeting of Congress, on the 3d of December, 1793, the President laid this proclamation before both houses. The Senate, in their address, in answer to the President's speech, thus express their opinion of the proclamation :

"We deem it a measure well timed, and wise; manifesting a watchful solicitude for the welfare of the nation, and calculated to promote it."

The address of the House of Representatives was *unanimously* agreed to. We read in it this paragraph:—"The United States having taken no part in the war which had embraced, in Europe, the powers with whom they have the most extensive relations, the maintenance of peace was justly to be regarded as one of the most important duties of the magistrate charged with the faithful execution of the laws. We accordingly witness, with approbation and pleasure, the vigilance with which you have guarded against an interruption of that blessing, by your proclamation, admonishing our citizens of the consequences of illicit or hostile acts towards the belligerent parties; and promoting, by a declaration of the existing legal state of things, an easier admission of our right to the immunities belonging to our situation."

Yet this is the instrument, thus approved by Congress, and whose only object was to caution our citizens to avoid certain acts, which would violate the laws of nations, which Mr. Adet has ventured to call "an insidious proclamation of neutrality."

The next executive act noticed by Mr. Adet, is the letter of the 4th of August, 1793, written, by the President's command, by the secretary of the treasury, to the collectors of the customs, and accompanied by the rules which the President had adopted, for preventing all armaments in favour of any of the belligerent powers. These rules were considered as just and necessary deductions from the laws of neutrality established and received among nations. The letter from the secretary of the treasury is explanatory of these rules, and among other instructions, particularly points the collectors to the 17th and 22d articles of our treaty with France; lest, by inattention or misconception of them, she might be injured, and her enemies benefited. The letter concludes with enjoining the collectors to execute those instructions, "with vigilance, care, activity and impartiality; because omissions would tend to expose the government to injurious imputations and suspicions, and proportionably to commit the good faith and peace of the country." How could such rules, with such reasons to enforce them, not escape censure? They

were framed and required to be executed with strict impartiality; and consequently were to prevent Frenchmen continuing those aggressions on our sovereignty and neutrality, which had been commenced under Mr. Genet's orders, and which were calculated to involve us in a war with Britain, Spain, and Holland; for, at that time, these were all combined against France. Frenchmen were to have no other preference *than those secured to them by treaty*; (except that they were not forbidden to sell their *lawful* prizes in our ports) and our own citizens were to be restrained from committing hostilities under the banners of France, as well as those of other powers.

The third offensive act was the President's *submitting* to Congress these measures, and suggesting the expediency of extending our legal code, giving competent jurisdiction to the courts, and providing adequate penalties to prevent or punish violations of the laws of nations.

The next complaint respects the act of Congress passed on the 5th of June, 1794, "for the punishment of certain crimes against the United States," being those to which their attention had been called by the President's speech. Mr. Adet asks, "What was its result?" and gives himself the following answer: "In consequence of this law, the greater part of the French privateers have been arrested, as well as their prizes; not upon formal depositions, not upon established testimony, not upon a necessary body of proofs; but upon the simple information of the consul of one of the powers at war with the French Republic, frequently upon that of sailors of the enemy-powers, sometimes according to the orders of the governors, but often upon the demand of the district attorneys, who assert, upon principles avowed by the government, that their conviction was sufficient to authorize them, without complaint or regular information, to cause the privateers to be prosecuted in virtue of the law above mentioned."—And "when the ministers of the Republic have asked for justice of the government, for the vexations experienced by the privateers, in contempt of the 17th article of the treaty, they have *never* been able to obtain satisfaction."

Judging only by these declarations of Mr. Adet, a stranger would imagine there had been a combination of the general and state governments and of our courts, to harrass and do injustice to Frenchmen engaged in privateering. But our own citizens place a different estimate on this impeachment of their President, their Senators and Representatives in Congress, their Judges and other public officers: and an examination of the cases cited by Mr. Adet to support his assertions, will manifest their incorrectness.

First Case. The French privateer *Sans Pareil*, and her prize the *Perseverance*.

On the 26th August, 1794, Mr. Fauchet complained that the prize had been seized on the pretext that the *Sans Pareil* had been illegally armed in the United States. The answer of September 3d, from the Secretary of State, which Mr. Adet censures "as indicative of delay," assured him that the Secretary had urged the Governor of Rhode-Island, where the prize was carried, to report the circumstances of the case without delay. On the 27th of September, the Secretary informed Mr. Fauchet that the Governor had decided that the prize should

be restored. On the 17th of October Mr Fauchet renewed his complaint, for on the suit of the claimant the prize had again been arrested by process from the district court. The Secretary of State answered on the 22d, with information that ought to have satisfied Mr. Fauchet. For admitting that, agreeably to the law of the 5th of June, 1794, the courts had authority, and were bound in duty to take cognizance of captures made within the jurisdiction of the United States, or by privateers illegally fitted in their ports, (the right of doing which Mr. Fauchet did not contest) they could not refuse it in the case of the prize of the *Sans Pareil*: the guard against vexatious prosecutions being the judgment for costs and damages to which an unjust prosecutor is exposed. The circular letter written on this occasion to the governor of the States manifests the solicitude of our government to prevent vexatious suits.

2d Case. Glass and Gibbs.

By the copy of the proceedings in the Supreme Court of the United States, in this case, you will see that the court did not, as stated by Mr. Adet, determine, "That the tribunals could decide whether a prize belonged to enemies or to neutrals." The question before the court was of the cognizance of a captured vessel and cargo, the former the property of a Swede, and the latter belonging partly to some Swedes, and partly to a citizen of the United States. The opinion therefore pronounced by the Supreme Court applied to the case in which one of the claimants was a citizen of the United States. And after solemn argument, the court decided, "That the district court of Maryland had jurisdiction, and should accordingly proceed to determine upon this case agreeable to law and right."

I will add only one more remark—That the 17th article, the letter of which we are charged with violating, in suffering our courts to take cognizance of French prizes, expressly refers to "the ships and goods taken from their enemies:" and it is the "examination concerning the lawfulness of such prizes," which the article forbids. But no examination of such prizes has been attempted by our government or tribunals, unless on clear evidence, or reasonable presumption, that the captures were made in circumstances which amounted to a violation of our sovereignty and territorial rights.

3d Case. The French privateer *L'Ami de la Point a Petre*, Capt, William Talbot, and her Dutch prize, the *Vrouw Christian Magdalena*.

To the information contained in the papers collected in this case, I have to add, that this cause was finally decided in the Supreme Court in August term, 1795. The court were unanimously of opinion, that in the particular circumstances of Talbot's case, notwithstanding his French commission, and his taking an oath of allegiance to the French republic, he continued to be a citizen of the United States. But the cause, as I am informed, did not appear to have turned on this point. Talbot had associated with one Ballard, commanding an armed vessel called the *Ami de la Liberte*, which had been fitted out in the United States, and had no commission. Talbot and Ballard cruised together as consorts; and in fact it was Ballard's vessel that took the prize; Talbot

not coming up till an hour after the capture. Ballard was afterwards tried before the Circuit Court for piracy.

The court were of opinion, from the tenor of the evidence, that Talbot's vessel was owned by citizens of the United States, to whom the prize-money would eventually find its way in case of restitution to the captors.

Ballard and Talbot were both citizens of Virginia. The attempt of the latter to become a French citizen was considered to be fraudulent, being made for the sole purpose of obtaining a commission, under colour of which he might plunder the subjects of nations with whom the United States were at peace.

An observation ought not to be omitted here—That although the captors, Talbot and others, had been defeated both in the district and circuit courts; yet they carried the cause up to the supreme court: thus using the legal right of appealing to the court in the last resort; a right which, alike exercised by the subjects of powers who were enemies to France, has formed a principal subject of Mr. Fauchet's and Mr. Adet's continued complaints.

4th. Under the head of complaints for vexatious prosecutions, Mr. Adet mentions only two cases in which damages and interest were allowed to the French captors, viz. One of *la Nuestra Senora del Carmen*, at Rhode-Island—and the other of *la Princesa des Asturias*, at New-York. "Yet (says he) the tribunals have *always* allowed damages to the captured, when they have declared the prizes illegal." How far the facts will warrant this last assertion, I am not possessed of documents to determine. I presume it is to be understood in a *general* sense only, and to admit of exceptions. And in this sense there will be no difficulty in admitting the truth of the assertion and accounting for it. The captures here referred to were made either within our jurisdictional line, or by *illegal privateers*, being such as were equipped in whole or in part in the ports of the United States. Of these material facts, the captors could not be ignorant: consequently they could have no apology for defending their unjust claims in our courts; and of course, were justly condemned in costs and damages.

In the case of the prizes of the privateer the *Citizen of Marseilles*, damages were claimed by the captors, but denied. For those prizes had been considered in the district court to be illegal. And although the sentence of that court was reversed in the circuit court, yet it was upon the introduction of new testimony, on the part of the captors. This last decision was confirmed in the supreme court, yet without damages; inasmuch as the testimony was considered to be so ambiguous as to justify the appeal.

The same remarks apply to the prizes of the privateer General Lavaux; with this addition, that one of the Judges dissented from the opinion of the court, being firmly of opinion that this privateer was covered American property.

The privateer *la Parisienne* had been registered as an *American coasting vessel*, under the name of the *Hawk*. During the embargo, in the spring of 1794, she slipped out of Charleston, and went to Port de Paix, where she was sold to one Blochos, a Frenchman, who armed her and

and provided her with a commission. Having afterwards arrived at Charleston, she was recognized and prosecuted for a breach of the revenue laws, *in having gone to a foreign port* whilst she was in the legal predicament of a *coaster*. The district court condemned her; but on the application of Blochos to have her restored on paying the appraised value, the judge permitted him to take her, *in a state of warlike equipment*. Shortly afterwards she put to sea and captured two valuable British prizes, the brigantines Cæsar and Favourite. On their arrival, the one at Charleston, the other at Savannah, suits were commenced to obtain their restitution, as having been captured by an illegal privateer. The decrees of the courts were in favour of the captors, but without damages. The supreme court disapproved of the restitution of the privateer without dismantling her; and considered the mistake committed in this respect a sufficient reason to cover the party prosecuting from the payment of damages.

All the other cases of captures by French privateers, which have been brought up to the supreme court, were decided at last August term. In some of them, the circumstances would not have warranted an award of damages; in others, *the consul for the captors omitted to ask for them*. When demanded, you know it is in the discretion of the court to grant or refuse them; this discretion being regulated by all the circumstances of each case. Hence, when a party is drawn before a court without good cause and vexatiously, damages are always given; but are denied when there appears a reasonable cause of controversy.

5th. Mr. Adet having briefly noticed several cases by name, seems to reserve those of the Vengeance and Cassius for a full display of unwarrantable conduct in the government and courts of the United States, and therefore descants on them at some length; but with so many aberrations from the facts, with so many erroneous ideas concerning our jurisprudence, and so many injurious insinuations respecting our courts and their officers, it will be necessary that you should learn the true history of these cases from authentic documents.

CASE OF THE FRENCH PRIVATEER LA VENGEANCE.

For the full history of this privateer and her prize, I must refer you to the documents in the case. The principal facts are these. About the latter of June or beginning of July, 1795, the privateer La Vengeance arrived at New-York with a valuable Spanish prize, called the Princessa de las Asturias. Don Diego Pintado, the owner, commenced a suit for his vessel, on the ground that she had been taken by an illegal privateer. The suit was instituted by Mr. Troup, not wantonly, but upon information which was afterwards verified by the oaths of several witnesses. In the progress of the cause these witnesses were contradicted by the witnesses produced on behalf of the captors, for whom a decree was finally given; the clashing evidence preponderating, in the judge's opinion, in favour of the captors; but he expressly declared that there was probable cause for the seizure.

After this suit for the prize had been commenced, the Spanish consul complained to Mr. Harrison, the district attorney, in his official

capacity, of a violation of law, on the part of the *La Vengeance*, in consequence of which a Spanish subject had been injured. Mr. Harrison, upon inquiry, found at least a probability that the complaint respecting the privateer was true.—This probability arose from what he considered as affording the certainty of material proof; and, therefore, in conformity with his official duty, commenced a prosecution on the act of Congress forbidding the arming of privateers in our ports. The decision of this and of the prize cause depended on the same evidence. The decision being in favor of the captors, Mr. Harrison acquiesced in it as it respected the privateer, and he united with his associate counsel in the prize cause in advising the like submission in that case. But the Spanish Consul deemed it his duty to pursue the claim to the court in the last resort. This can warrant no complaint; for Mr. Harrison remarks, that perhaps there never were causes in which more contradictory and irreconcilable evidence was offered, and in which the minds of the auditors were more divided as to the real state of facts.

The second public suit against the privateer was for exporting arms and ammunition from the United States, when such exportation was prohibited by law. The evidence which appeared in the other causes, gave rise to this prosecution; and upon the trial the judge condemned the privateer. An appeal from this sentence was interposed by the French Consul. The appeal was heard in the circuit court; and upon 'new evidence' the sentence of the district court was reversed.

Mr. Adet complains, that while one suit was pending for the prize, and another against the privateer, the district attorney should exhibit a second information against the privateer, on which she was arrested anew for having exported arms in violation of a law of the United States, which was in force when the *Vengeance* sailed from New-York; and that this information was filed on the simple declaration of Mr. Giles, the marshal of the court, who, as informer, was to share part of the confiscation. As Mr. Harrison remarks, it was in favor of the privateer, that this second information was filed 'while the first was pending;' because it saved time. Had he postponed the latter until the first had been decided, there might have been some foundation for a charge of unnecessary delay. Mr. Harrison's state of the case shews that this second information was not made on the declaration of the marshal; but on the evidence that appeared on the examination of the first.

Mr. Adet having been pleased to censure the conduct of the attorney, clerk, and marshal of the district court of New-York, in justice to them, I have added to the other documents in this case, the letters of Mr. Harrison and Mr. Troup. They will answer the double purpose of justifying them and of vindicating our government and tribunals.

Mr. Adet particularly notices the papers he had received from St. Domingo. "Proving (as he says) in the most convincing manner, that the *Vengeur* (a *Vengeance*) had arrived at Port de Paix without any armament or equipment whatever, and that she had been sold, armed and equipped wholly, and commissioned as a privateer, on the territory of the Republic. These documents were certificates of the General, the Ordonnateur, and of the greater part of the principal officers

of St. Domingo," &c.—He hastened to communicate to the Secretary of State, and to request him to order the attorney of New-York District to stay the proceedings instituted in the name of the government: there was nothing done with them, and Mr. Harrison continued his prosecution. It will appear by my letter of October 1st, 1795, to Mr. Harrison, that these papers were sent to him, and by his answer of October 3d, that he received them. That the bill of sale (one of the papers) was produced to the court in behalf of the claimant of the privateer, but that the certificate of General Leveaux could not be considered as evidence in the cause, and if it had been admissible, "the claimant would be very cautious of producing it, on account of its differing from the witnesses."

6th. Case of the privateer Le Cassius.

For the full history of this case, I must also refer you to the documents; and here only present you with a concise statement.

The Cassius, under the name of les Jumeaux, was fitted and armed for a vessel of war in the port of Philadelphia, in violation of a law of the United States. In December, 1794, having escaped from the port to descend the river, orders were given to the militia of the state of Delaware to intercept her. The attempt was made and failed—the crew of les Jumeaux, which was unexpectedly found to be very numerous, resisted the officers who went on board, manned their cannon, and brought them to bear on the cutter in which the militia (about 40 in number) were embarked. Their force being inadequate to the enterprise, they retired, with an intention to return the next day with a reinforcement. They did so: but les Jumeaux had sailed and gone to sea. The agent, Mr. Guener, by whom les Jumeaux had been fitted out, was tried in the circuit court at Philadelphia, convicted of the offence, and received sentence of fine and imprisonment.

Les Jumeaux proceeded to St. Domingo. Samuel B. Davis, a citizen of the United States, there took the command of her, with a commission from the French government. Davis probably sailed from Philadelphia in les Jumeaux, for the purpose of finally taking the command of her. Her name was now changed to Le Cassius; and on a cruize she took a schooner called the William Lindsay, belonging to Messrs. Yard and Ketland, of Philadelphia; Mr. Ketland having purchased an interest in her after her sailing. The schooner and her cargo were condemned as prize at St. Domingo. In August, 1795, Captain Davis, commanding Le Cassius, came with her to Philadelphia. She was immediately known. Mr. Yard, with a view of obtaining an indemnification for the loss of the schooner and her cargo, libelled Le Cassius in the district court, and caused the captain to be arrested. Soon after, the supreme court being in session, Captain Davis's counsel applied for and obtained a prohibition to the district court, to stop its proceedings; by which the suits, both against him and Le Cassius were defeated. The prohibition was granted on this principle, that the trial of prizes, taken without the jurisdiction of the United States, and carried to places within the jurisdiction of France, for adjudication, by French vessels, and all questions incidental to it, belonged exclusively to the French tribunals; and consequently that its vessels of war and

their officers are not liable to the process of our courts, predicated upon such capture and subsequent proceeding within the jurisdiction of the French government.

Messrs. Yard and Ketland having failed to obtain an indemnification in this mode, procured new proofs, on the information of Mr. Ketland, to be issued from the circuit court, by which Le-Cassius was attached as a vessel armed and equipped as a ship of war in the port of Philadelphia, with intent to cruize and commit hostilities against nations with whom the United States were at peace; in violation of the act of Congress prohibiting such armaments. Mr. Adet complained that the process was taken out of the circuit court, because, as he alleged, it had no jurisdiction, and that it would be attended with delay—that court sitting but twice a year; whereas the district court, in which it was said the prosecution [if at all permitted] should have been commenced, was always open. I consulted gentlemen of legal knowledge on the point of jurisdiction in this case, and they were decided in their opinion that the circuit court had jurisdiction, and exclusively of the district court.

You will see also, in Mr. Rawle's statement of this case, that this opinion was adopted and supported by two gentlemen of eminence at the bar. You will further see in that statement, that the government of the United States had no part in originating this prosecution; and that the district attorney, in behalf of the United States, took measures at each term of the circuit court to prepare the cause for trial, and on a plea calculated to defeat the prosecution. At length, in October term, 1796, the cause was brought to a hearing. In the course of the argument the question of jurisdiction presented itself. The court adjourned till the next day to consider of it, and on the following morning dismissed the suit. As soon as I had received notice of this event (on the 19th of October last,) I wrote to Mr. Adet, informing him that Le Cassius remained in the custody of the marshal, but ready to be delivered to his order. To this no answer was returned: but he mentions the matter in the notes subjoined to his note of the 15th November, intimating that the United States were answerable in this case of a violation of treaties, and for the damages the Cassius has sustained. Here the affair rests.

In his letter of the 23d of June, 1796, which you will find among the papers respecting the Cassius, Mr. Adet mentioned the affair of the Favourite of New-York; and intimated an idea that the executive might in like manner cause the prosecution against Le Cassius to cease. But the proceedings in the case of the Favourite were wholly in the hands of the executive officers, who were under the President's immediate controul, and to whom, on evidence satisfactory to the executive, orders were given to discontinue the process. In this affair of the Favourite we are fortunate in finding one case of which Mr. Adet, contrary to his assertion in his note of November 15, acknowledges that justice was done by our government. You will observe in Mr. Fauchet's letter of the 23d of Sept. 1794, a very formidable complaint in the affair of the Favourite: that it was pretended that a privateer fitted for a cruise had deposited arms on board her, and that this pretext was used for

visiting and pillaging her: That she was a ship of war of the Republic, then serving as a store-ship until she could be repaired: That the sovereignty of France was violated, and her flag insulted. Yet by the letter of John Lamb, Esq. collector of the port of New-York, of the 22d Nov. 1794, you will see that at the time the seizure was made of the suspected articles on board the *Favourite*, "she having been totally dismantled, her crew sent on board other ships of war, and her sails, rigging and other materials sold at public auction, she was considered as a hulk; otherwise the event would not have taken place." The collector further declares that the charge of pulling down the national flag and hoisting another in its place was groundless.

These are all the cases expressly mentioned by Mr. Adet, in which French privateers and their prizes have been brought under the cognizance of our courts of justice; and all therefore to which an answer can be directed. Had he cited the other cases, which he says would fill a volume, we have no doubt that there would be found in them, as in those which have been mentioned, abundant reason to justify the government and the tribunals.

Mr. Adet's complaints are not confined to imputations of injustice experienced by French privateers and their prizes from our courts.

1st. "The protests against the violation of the 17th article of the treaty, in contempt of which the American tribunals have taken cognizance of the validity of prizes made by French ships of war or privateers, under pretext of original armament or augmentation of armament in the United States; or of capture within their line of jurisdiction." But his predecessor, Mr. Fauchet, after saying that our admiralty courts interfered in prize causes, on the ground of "seizure within the jurisdictional line of the United States, or of armament or augmentation of armament of the capturing vessels in their ports," immediately adds, "On this subject, Sir, you request me to specify to you a circumstance in which a prize was arrested, which did not come under that denomination, and you take the trouble to establish, that they have a right to interfere in every case that can be brought under those heads. In the first place, Sir, I never have, at least to my recollection, contested the right of your courts, or of the government, to interfere in matters of the nature of those you mention: but I complain of the facility with which prizes have been thrown into those two classes, which do not belong to them." He then says that he could cite a great number of affairs to which he alludes; but contents himself with mentioning only two. The first is the case of *Talbot*, of which I have already given some details, and which, with the documents referred to, will shew this to have been an unfortunate instance to support his complaint. The other is that of the prizes of the *Citizen of Marseilles*, also already mentioned, and which will not justify a complaint; for altho the final decision was in favor of the privateer, yet the sentence of the district court was not reversed in the circuit court but upon the introduction of new testimony; and the supreme court allowed no damages, because the testimony was so ambiguous as to justify the appeal.

But quitting the contradictory declarations of the French ministers, and referring you to the letter dated August (5) 16, 1793, from the

secretary of state to our minister at Paris, (which has been published) for the reasoning of our government on the subject, and the demonstration of their right and duty as a neutral power, to prohibit any of the belligerent powers arming their vessels in our ports, consequently to restore to their proper owners prizes taken and brought in by vessels so unlawfully armed, or when taken within our line of jurisdiction, I will only add here—That the principles of the rules on this subject, first adopted by the President on the most mature deliberation, received afterwards the sanction of Congress, by their act of 5th of June, 1794, and of the judges in all their judicial proceedings, in the prize causes in question. If then the 17th article of the French treaty has been violated, the Executive, the Legislature and the Judges of the federal courts have all deliberately concurred in the violation. This no American citizen will be inclined to believe, and we might suppose that the consideration of such concurrence in one opinion would any where produce a pause, and some diffidence in pronouncing it erroneous. Neither the rules adopted by the President nor the act of Congress have made a new law respecting such prizes: they have only directed the *modes of proceeding to fulfil our neutral duties agreeably to the universal law of nations*. The Judges have applied this law; but not without due attention to the obligations of our treaties, which they regard as supreme laws of the land.

2d. Mr. Adet “protests against the violation of the 17th article of the treaty, in contempt of which English vessels, which had made prize on Frenchmen, have been admitted into the ports of the United States.” The construction of this part of the 17th article for which Mr. Adet, after his predecessor Mr. Fauchet, contends, is this—That if a national ship of war of the enemies of France has *at any time*, and *in any part of the globe*, made prize of a French vessel, such ship of war is to be allowed no shelter or refuge in our ports, unless she is driven in thro’ stress of weather; and then she is to be made to depart as soon as possible. On the contrary, the construction adopted by the Executive of the United States, and expressed in the rules before-mentioned, which had been transmitted to the collectors in August, 1793, was this—That *privateers* only of the enemies of France were absolutely excluded from our ports, except as before, when compelled to enter through stress of weather; pursuant to the 22d article of the treaty; while the *national* ships of war of *any other nation* were entitled to an asylum in our ports, excepting those which should have made prize of the people or property of France, *coming in with their prizes*.

On the 9th of September, 1793, the Secretary of State thus expressed to the British Minister the determination of the Executive (6) “*The public ships of war* of both nations [French and English,] enjoy a perfect equality in our ports, 1st, in cases of urgent necessity—2d, in cases of comfort and convenience—and 3d, in the time they choose to continue; and tho the admission of *prizes* and *privateers* of France is *exclusive*, yet it is the effect of treaty, &c.

In support of our construction of the treaty, it has been observed, that (7) “the first part of the 17th article relates to French ships of war and privateers entering our ports *with their prizes*; the 2d con-

trasts the situation of the enemies of France, by forbidding such as shall have made prize of the French: intimating from this connection of the two classes, that those forbidden are those which bring their prizes with them." To these observations I will add—That if the *literal* construction contended for by the French Ministers were admitted, then, altho the *public* ships of war which *had* made prize of French people or property, would be excluded from our ports; yet the *prizes* of such *public* ships might be received, and they might be *sold* too; for the prohibition in the 22d article of the treaty applies only to *privateers* and *their prizes*; while the government of the United States judged that the 17th article was intended to exclude the *prizes* made on the French by *public* ships of war as well as those made by *privateers*; and gave directions accordingly to have them excluded. Further, if it had been intended to exclude from our ports the *public ships of war* of the enemies of France, coming *without any prize*, then they would doubtless have been comprehended in one provision with the *privateers* in the 22d article: for privateers are thereby excluded, whether they came with or without prizes. But *public* ships of war are not comprehended, or at all referred to in the 22d article; whence the conclusion is fair, that it was not intended to forbid them coming *alone*; and consequently that the exclusion provided in the 17th article, applies to them only when they would come into our ports *with their prizes*; this last clause of the same article being in its form opposed to the first clause, which *admits* the entrance of French ships *with their prizes*. Besides, if a *public ship of war* of the enemies of France comes into our ports *without any prize*, how is it to be known whether she has or has not made prize of the people or property of the French? Who is to erect a tribunal to investigate and pronounce on the fact? But if she comes *with a prize* the case presents no difficulty; she brings with her the evidence which goes to the exclusion of her and her prize.

I must now advert to some others of Mr. Adet's charges against the government of the United States.

1st. "It [the government of the United States] put in question whether it should execute the treaties, or receive the agents of the rebel and proscribed princes." And is there any thing in this unjustifiable or extraordinary? Was it easy for a nation distant as ours, to obtain promptly such accurate information as would enable it duly to estimate the varying condition of France? In 1791, the constitution formed by the constituent assembly was accepted by Louis the 16th; it was notified to the United States in March, 1792. Congress desired the President to communicate to the king of the French their congratulation on the occasion. In August, 1792, the king was suspended. In September Royalty was abolished: and in January, 1793, Louis the 16th, tried and condemned by the Convention, suffered death. Was it easy to keep pace with the rapid succession of such revolutionary events? And was it unlawful for one government under such circumstances even to deliberate? I do not find that information of the death of the king was received from our Minister at Paris until May 1st, 1793. The news however had previously arrived in such a manner as to attract the attention of government: for in April the

President had determined to receive a Minister from the French Republic. And it is remarkable that this was before he knew that a Minister had arrived in the United States. This promptitude in deciding a leading question does not bear any strong marks of hesitation. And was there no merit in this ready determination to acknowledge the French Republic? Had it been before acknowledged by any power on the globe? How long did *France hesitate* to acknowledge the Republic of the United States? A year and a half. And under what circumstances was the acknowledgement finally made? After the capture of a whole British army appeared to have established our independence. But of this more hereafter.—In matters of importance (and what could be more important than the decision of a neutral and allied nation in questions perhaps involving war or peace?) is it the part of wisdom to reject all deliberations even on points which do not obviously present difficulties? Will not prudence dictate to him who is to decide great national questions rather to deliberate long than risk the consequences of hasty decisions?

2d. "It made an insidious proclamation of neutrality."

I have already remarked that this proclamation received the pointed approbation of Congress; and I might truly add of the great body of the citizens of the United States. And what was the general object of this proclamation? To preserve us in a state of *peace*. And have not the Ministers of France declared that their government did not desire us to enter into the war? And how was peace to be preserved? By an impartial neutrality. And was it not then the duty of the Chief Executive to proclaim this to our citizens, and to inform them what acts would be deemed departures from their neutral duties? This was done by the proclamation. It declared it to be the duty, interest and disposition of the United States to adopt and pursue a conduct friendly and impartial towards the belligerent powers: It warned the citizens to avoid all acts which might contravene that disposition: it declared that whosoever of the citizens should render himself liable to punishment or forfeiture under the law of nations, by committing or abetting hostilities against any of those powers, or by carrying to any of them articles deemed contraband of war, would not receive the protection of the United States against such punishment and forfeiture: and that the President had given instruction to the proper officers to prosecute all persons who should violate the law of nations with respect to the powers at war, or any of them. To what in all this can the epithet *insidious* be applied? On the contrary, is not the whole transaction stamped with *candor* and *good faith*?

3d. "By its *chicaneries* it abandoned French privateers to its courts of justice." *Abandoned them to its Courts of Justice!* Sir, you know many of the Judges personally, and all of them by reputation, and that their characters need no vindication from such an insinuation. They are Judges with whose administration of Justice our own citizens are satisfied; and we believe they may challenge the world to furnish a proof that they have not administered justice with equality, impartiality to foreigners. I will only add here one remark, that the correspondences with the French Ministers, formerly published, joined to

those now furnished you, with the other documents accompanying them, will show how loudly they can complain of the proceedings in our courts, and at the same time with how little justice.

4th. "It eluded the amicable mediation of the Republic for breaking the chains of its Citizens at Algiers." We did not entertain any doubt of the friendly disposition of the French Republic to aid us in this business. But what was really done we have never known. You will find herewith Mr. Fauchet's letter of June 4th, 1794, and the answer of the Secretary of State on the 6th, to which Mr. Adet refers. The information on the subject which Mr. Fauchet expected "in a little time from Europe," probably never arrived: at least it was never communicated to our government. There is surely in the Secretary's answer no evidence that our government were unwilling to accept the mediation of the Republic. On the contrary, we have relied upon it to aid our negotiations with the Barbary powers. Accordingly, when Colonel Humphreys went from hence in 1795, clothed with powers for negotiating peace with those states, he was particularly instructed to solicit the mediation of the French Republic; and for that purpose only he went from Lisbon to Paris, where, thro' our Minister, the Committee of Public Safety manifested their disposition to contribute to the success of his mission. But Colonel Humphreys was at the same time authorised to depute Joseph Donaldson, Esquire, (who had been appointed Consul of the United States for Tunis and Tripoli, and who went with Colonel Humphreys from America) to negotiate immediately a treaty with Algiers: for in a country where a negotiation depended on so many contingencies, it was of the last importance to be ready to seize the favorable moment to effect a peace, whenever it should offer. Such a moment presented on Mr. Donaldson's arrival at Algiers. He had not been there forty-eight hours before the Treaty was concluded. It is also a fact that it was effected without the aid of the French Consul at that place. However, with respect to Mr. Donaldson's negotiation, we are well informed that "his not conferring with the Consul of France was not his fault; and if he had done it, that it would have injured his cause: neither the Republic nor her Consul enjoying any credit with the Dey." But we are at the same time informed that the cause of this was transitory, and ought not to hinder us from endeavoring to engage her interest for other places, and in that place for future occasions. Agreeably to this idea the Agent of the United States applied to the French Consul, Herculaïs, at Algiers, the last spring, to recommend a suitable person to negotiate a treaty with Tunis. The person recommended was employed, and we have been informed, had in part succeeded, and was expected to complete a treaty of peace. This information was communicated to our Minister at Paris, in a letter dated 30th of August last, from the French Minister for foreign affairs, accompanied by an extract of a letter from the Consul Herculaïs.

In all these transactions, far from discovering a trace of evidence to support Mr. Adet's charge, the reverse is manifestly proved.

5th. "Notwithstanding treaty stipulations, it allowed to be arrested vessels of the state."

While we admit the fact that French vessels have been arrested, we deny that the arrests have infringed any treaty stipulations. The details in this letter and the documents referred to, appear to us entirely to exculpate the government. And if neither the executive nor our tribunals could in any case take cognizance of captures which the French privateers called *prizes*, then they might take our own vessels in our rivers and harbors, and our citizens be without redress. But “(8) it is an essential attribute of the jurisdiction of every country to preserve peace, to punish acts in breach of it, and to restore property taken by force within its limits. Were the armed vessels of any nation to cut away one of our own from the wharves of Philadelphia, and to choose to call it a prize, would this exclude us from the right of redressing the wrong? Were it the vessel of another nation, are we not equally bound to protect it while within our limits? Were it seized in any other waters, or on the shores of the United States, the right of redressing is still the same: and humble indeed would be our condition were we obliged to depend for that on the will of a foreign consul, or on negotiation with diplomatic agents.”

The same reasoning will apply to captures made by illegal privateers; that is, by such as were armed and equipped in the ports of the United States: for it being by the law of nations the right of our government, and as a neutral power, its duty to prevent such armaments, it must also be its right and duty by all means in its power, to restrain the acts of such armaments done in violation of its rights and in defiance of its authority. And such were the armaments made by French people in the ports of the United States. And the most effectual means of defeating their unlawful practices was the seizing of their prizes when brought within our jurisdiction. It is very possible, indeed, that in some cases the irritated subjects or public agents of nations whose property was taken by French privateers, might commence vexatious prosecutions: but this is no more than happens frequently among our own citizens, and in every nation in the world; and the only restraints on the vindictive passions of men, in such cases, which the policy of free governments has imposed, are the damages which the courts compel the malicious prosecutor to pay to the injured party. If, as Mr. Adet asserts, damages have in two cases only been granted by the courts to French privateers, even when the decisions have been in their favor, it has arisen from their own conduct, or the omission of their counsel; or from accidental circumstances, which, in the opinion of the courts, furnished reasonable presumptions against them of having violated the laws, either by illegally arming in our ports, or making the captures within our jurisdiction. If, on the other hand, they have, in the event of contrary decisions, been always condemned to pay damages, we may venture to say it was because they were always in the wrong. For no one will find sufficient ground to impeach the discernment or integrity of our courts.

6th. “It suffered England, by insulting its neutrality, to interrupt its commerce with France.”

That our commerce has been interrupted by the armed vessels of England, and sometimes with circumstances of insult, we certainly

shall not attempt to deny: the universal resentment and indignation excited by those injuries were admissions of the fact: but that the government has *connived* at the practice (for that Mr. Adet must have intended to insinuate by the word "suffered") all its acts most forcibly contradict. It was because of those aggressions that preparations for war were commenced; and to demand satisfaction for them was the leading object of Mr. Jay's mission to London. Satisfaction was demanded; and the arrangements agreed on for rendering it, are now in execution at London. But if by "suffered" Mr. Adet means that we did not arm, that is, make war on England, to obtain the indemnification, when humanity, reason, and the law of nations prescribe the mode of previous peaceable demand—to these very principles we may appeal for our justification; and if it is necessary to go further, we say, that as an independent nation, we must be left to determine in what manner we can most beneficially obviate an evil, and when it is most proper for us to repel an injury. To deny us this right of judgment, is to deny our independence.—We have not been insensible either to our honor or our interest. If we have manifested much long-suffering, we have not been singular. Neutral nations very commonly endure many temporary evils: because these appear light when compared with the calamities of war; and they look forward, as we have done, to a period when returning justice may redress their wrongs. This period we trust will arrive in regard to those we are now suffering from the French Republic. If a nation not bound to us by treaty, and between whom and ourselves actual circumstances and many recollections tended to excite peculiar passions, engaged to render us justice, shall we expect less of an avowed friend?

We may here properly inquire, what could have been the understanding of the parties on this point when the treaty of 1778 was made between France and the United States. She knew, that notwithstanding the extent of our country and its rapid increase in population, many years must elapse before we could form a powerful navy to protect our commerce. She knew the conduct of maritime powers in all their wars: particularly she was acquainted with the maxims and measures of England, towards the commerce of neutral nations, in all her wars with France. And if, knowing these things, France then expected, that in all subsequent wars we should *compel* the maritime powers in general, and Great-Britain in particular, to admit our commerce to perfect freedom, then, instead of a treaty of *commerce* containing regulations for conducting it, when France should be at war, she would have demanded from us a stipulation, that in every future war in which she should be engaged with any other maritime power, we also should engage in it as her associate. But this is a condition which France was too just to demand, and to which the United States would never have agreed.

7. "Notwithstanding the faith of treaties, it gave an asylum to these same English, who, after having insulted her flag, pillaged her citizens, came also to brave the American people in their ports, and to take a station whence to cruize, on a favorable opportunity, against the French."

This, like most of Mr. Adet's charges, is but the renewal of the complaints of his predecessor, Mr. Fauchet, and the vindication of the

government, will appear in the answers and communications from the secretary of state to that minister, in the years 1794 and 1795. The cases particularly noticed were those of the British frigate *Terpsichore*, and her prize *la Montagne*; and of the British ship *Argonaut*, and her prize *l'Esperance*. The *Thetis* and *Hussar* British frigates, with their French prizes *la Prevoyance* and *la Raison*, are also mentioned, but without any facts or circumstances as subjects of inquiry, which, of course, is precluded. That of the *Terpsichore* and her prize, appears to have been the first case of the kind in which the Executive of the United States, and those of the particular states, were called to interfere; and, therefore, it will not be thought extraordinary, if the Executive of Virginia was unprepared with arrangements to give instant effect to the stipulation of the 17th article of the treaty of 1778, forbidding an asylum to the armed vessels of the enemies of France and their prizes. What delay took place seems to have been the result of accident; certainly not of design. And by letters from this department, the Executives were earnestly pressed to take the necessary order for a prompt execution, in future, of this part of the treaty. But why should the French ministers complain with such energy, that a British ship of war, with her prize, remained in one of our ports during, perhaps, twenty, or five and twenty days; when, against the earnest requests and orders of the Executive, the French privateers, armed in our ports, in violation of the laws, long continued to keep on our coast and enter our harbors; thence, on favorable opportunities, to cruize against their enemies? The *Columbia* or *Carmagnole*, continued such her unlawful acts for more than a year.

After all the zealous remonstrances of Mr. Fauchet, now renewed by Mr. Adet, about the capture of the French corvette *l'Esperance*, by the British ship *Argonaut*, who went with her prize into *Lynn-Haven-Bay*, what were the facts? The Governor of Virginia went personally to the French Consul at *Norfolk* for information concerning this declared violation of the treaty—but “received none which appeared to justify the uneasiness occasioned by that event; he charged no circumstance as *improper in the captors*; but rather seemed to consider the introduction of the prisoners made on that occasion, so soon into a place where the exchange would be effected, as an alleviation of the misfortune of losing the vessel.” The captain of the French corvette himself was desired to give evidence in the case; he promised, but failed to appear. He was called upon a second time to give information, but discovered an unwillingness to do it, observing that he had given the Consul a circumstantial account of the transaction on his arrival.—The governor having heard that a respectable pilot, by the name of *Butler*, was acquainted with the circumstances of this affair, he directed his deposition to be taken: it was taken, and imported that Admiral *Murray* himself purchased the prize *l'Esperance*, and manned and fitted her in *Lynn-Haven-Bay* for a cruise. But *Butler's* deposition was afterwards taken on the part of the British, in which he contradicted all the material facts recited in the former deposition; for which he accounted by saying, that he could neither write nor read, and that there had been inserted in his first deposition what he had never said. Under

these circumstances it was desirable to obtain further information. This was furnished by the British minister in the extract of a letter from Admiral Murray, which bears every mark of candor and humanity, and of respect for the United States. It is as follows: "The French sloop of war *l'Esperance* was brought into Lynn-Haven-Bay on the 11th January, (a few days after my arrival there) by Captain Ball, who had captured her fifteen leagues from the shore: the weather being very tempestuous, a lieutenant, with a sufficient number of men only to navigate her, (not being half the complement the French had in her) were sent on board from the *Resolution* and *Argonaut*; and so soon as the weather permitted those ships to supply her with water and provisions, I sent her to sea, that I might give no umbrage to the American States. An additional reason for bringing *l'Esperance* into Lynn-Haven-Bay was out of humanity to the French prisoners, whom, having had a long voyage, I sent to Norfolk as soon as prudence would permit: otherwise they must have been kept prisoners on board the whole winter, and sent to Halifax in the spring: nor was she equipped or armed then in any manner whatever; nor did the lieutenant receive any commission for her whilst in Lynn-Haven-Bay; and when at sea, only an acting order to command her, which is customary and absolutely necessary in all captures; otherwise, if retaken by the enemy, he might be considered as a pirate."

8. "It might be said that it applauded their [the English] audacity; all submission to their will, it allowed the French colonies to be declared in a state of blockade, and its citizens interdicted the right of trading to them."

If among the multitude of such complaints as Mr. Adet has exhibited, any one could excite surprise, this charge is calculated to produce it. Here a formal charge is made against the government of the United States, that it did not control in another independent nation the right of judging of its own affairs—that it did not forbid and effectually prevent the officers of a foreign power, the British admirals and commanders, in the West-Indies, declaring certain French colonies to be in a state of blockade!—"But the official legalization of a proclamation had been posted up under our eyes, prohibiting our commerce with the French colonies, and suspending *to us alone* the law of nations!" The answer to Mr. Fauchet from the Secretary of State, represents this matter differently. The British Consul-General at Philadelphia, by a publication on the 10th of April, 1795, gave notice that he had received official communications that the islands of Guadaloupe, Marigalante and Desirade were, by proclamation issued by his Britannic Majesty's General and Vice-Admiral commanding in the West-Indies, declared to be in an actual state of blockade; and that *neutral* (not singly *American*) vessels were thereby prohibited from attempting to enter any ports or places in those islands with supplies of any kind, under the penalty of being "dealt with conformably to existing treaties, and as warranted by the established laws of nations." And while existing treaties (our treaty with Great-Britain had no operative existence till six months after the Consul's advertisement) and the laws of nations were avowed to be the rules by which the property of neutrals was in

this case to be adjudged, had they reason to complain? If any neutral vessel attempted to enter any of those ports which were not in reality in a state of blockade, and yet were captured, could they be condemned? Certainly not by the rules which the British prescribed to themselves, "treaties and the laws of nations." But if the British commanders proclaimed untruths, and issued arbitrary orders for capturing neutral vessels; and their cruisers and courts of admiralty executed them arbitrarily; could the American government prevent them? We could demand of the British government satisfaction for injuries to our own citizens consequent on such orders; and if any such were sustained, the arrangements for making reparation are now in execution. But admitting that any ports in the French colonies were in fact blockaded; who should notify it to neutral nations accustomed to trade with those ports? Certainly the officers of that power whose fleets and armies formed the blockade; and in the United States no mode of giving universal notice could be so effectual as a publication in handbills and newspapers.

9th. "It eluded all the advances made by the Republic for renewing the treaties of commerce upon a more favorable footing to both nations; it excused itself on the most frivolous pretexts; whilst it anticipated Great-Britain, by soliciting a treaty, in which, prostituting its neutrality, it sacrificed France to her enemies; or rather, looking upon her as obliterated from the map of the world, it forgot the services she had rendered it, and threw aside the duty of gratitude, as if ingratitude were a governmental duty." Of the advances referred to, the first were made by Mr. Genet. "These you will see in the printed correspondence between him and Mr. Jefferson. Mr. Genet's letter is dated the 23d of May, 1793, in which he informed the government that he was authorized to propose a treaty on a (9) "liberal and fraternal basis." Mr. Jefferson's letter to Mr. Morris, our minister at Paris, dated the 23d of August, 1793, assigns the reason for postponing the negotiation. (10) "The senate (says he) being then in recess, and not to meet again till the fall, I apprised Mr. Genet that the participation in matters of treaty, given by the Constitution to that branch of the government, would of course delay any *definitive* answer to his friendly proposition. As he was sensible of this circumstance, the matter has been understood to lie over till the meeting of the Senate." Congress were not to meet until December; consequently there was no necessity for precipitating the business. But with the best dispositions to form new commercial arrangements mutually more beneficial than those of the treaty of 1778, the unwarrantable conduct of Mr. Genet, from the moment he landed at Charleston until the date of his letter on the subject of the negotiation, was sufficient to excite caution in the American government.

He had there violated the sovereignty of the United States, "by authorizing the fitting and arming of vessels in that port, enlisting men, citizens and foreigners, and giving them commissions to cruise and commit hostilities on nations at peace with us, (11)" and with whom we had extensive commercial connections. "These privateers were taking and bringing prizes into our ports, and the Consuls of France

were assuming to hold Courts of Admiralty on them to try, condemn and authorize their sale as legal prize." Nevertheless, the government, really desirous of forming a new and more advantageous commercial treaty with France, instructed the Minister of the United States at Paris to manifest the same to the Executive of France, (12) and to suggest for this purpose that the powers of Mr. Genet be renewed to his successor. It is true that in his letter dated the 30th of September, Mr. Genet had renewed the proposition of negotiating a commercial treaty: But how was it possible for the government to undertake a negotiation with that Minister after "the correspondence which had taken place between the Executive and him," (a correspondence on his part replete with insults) "and the facts which he had thought proper to do and to countenance in opposition to the laws of the land?" After the government had instructed our Minister at Paris to desire Mr. Genet's recal, and to declare to the government of France "the necessity of their having a Representative here disposed to respect the laws and authority of the country, and to do the best for their interest which these would permit;" "and when it was only an anxious regard for those interests, and a desire that they might not suffer, which induced the Executive, in the mean time, to receive his communications in writing, and to admit the continuance of his functions so long as they should be restrained within the limits of the law, as theretofore announced to him, or should be of the tenor usually observed towards independent nations by the representative of a friendly power residing with them?" Under such circumstances, what answer could the Executive return to Mr. Genet more proper, and more marked with attention to France, than that his letter would be considered with all the respect and interest which its *object* necessarily required?

It is probable that the powers to negotiate a commercial treaty were not renewed to Mr. Genet's successor; certainly they were not communicated to our government.

We now come to the fresh overtures of a commercial negotiation made by Mr. Adet.

The first notices of them are found in memoranda of facts, dated the 27th and 29th of June, 1795, and subscribed by the Secretary of State. By these, it appears, that, on the 13th of June, Mr. Adet arrived at Philadelphia. On the 15th, Mr. Fauchet introduced him to the Secretary of State; and on the 16th, Mr. Adet informed the Secretary, that he should the next day send him some act of the French government, relative to commerce; but it was not sent. On the 22d of June, Mr. Adet was reminded of the promised communication. He said it was copying, and gave reason to suppose that he should forward it on that day; but on that day nothing was received.

On the 29th of June, 1795, Mr. Adet had an interview with the Secretary of State: He observed, that he brought with him the commercial decrees which Mr. Genet had formerly propounded to our government, and was instructed to negotiate a treaty of commerce upon their basis. He was asked whether he had any documents to communicate. He replied, that he would send them that day. He said he had to communicate some inquietudes respecting the late treaty

between the United States and Great-Britain. He observed, that it was understood, that the United States had disabled themselves from entering into a new commercial treaty upon a liberal scale with France. The Secretary answered, that he had determined before he came, to ask the permission of the President, to communicate to him a copy of the treaty; and then he might say in what part he supposed that any impropriety with respect to France existed. The President having afterwards assented, the Secretary, on the same day, delivered to Mr. Adet a printed copy of the treaty, on which he promised to communicate his remarks.

These remarks, dated June 30th, and the Secretary's answer, dated July 6th, refuting the objections they contained, I have already noticed.—The subsequent proceedings will show either that those objections did not make any strong impressions on Mr. Adet's mind, or that the Secretary's answer had removed them.

On the 30th of June, 1795, Mr. Adet communicated a part of his instructions relative to "a new commercial treaty, and a new consular convention to be entered into between France and the United States." The instructions imported, that he was only to "*prepare* with the American government the means and arrangements" of these treaties, and then to communicate them to the committee of public safety. The object of the new treaty was declared to be "to found the commercial relations of the two republics upon stipulations *more reciprocally* advantageous, and more clearly worded, than that of 1778, and the object of the consular convention to secure the execution of the commercial treaty."

The Secretary of State answered, on the first of July, expressing the readiness of the government to open the proposed negotiation, and requested a communication of the dates of the decrees to which Mr. Adet's instruction referred.

On the 8th of July, 1795, Mr. Adet replied to the Secretary of State, "that he neither knew or possessed any other decree relative to the new negotiation to be opened between France and the United States, than that of the (13) 5th of February, 1793, communicated to us by citizen Genet." This letter of the 8th, was received the 12th, accompanied by a note of the latter date, apologizing for the delay on account of sickness. On the 12th, the Secretary of State had written to him, *pressing him* on the subject of the new negotiation.

On the 16th of July, 1795, the Secretary of State again wrote to Mr. Adet, and, after informing him that, as *he* was not clothed with any very formal authority upon this subject, the President of the United States had thought proper to place *him*, (*the Secretary of State*) upon the same, and no other footing;—the Secretary proposed that the negotiation should be conducted in writing, unless when either thought it expedient to have an interview on any particular difficulty. And then, assuring Mr. Adet, that no unnecessary procrastination should be found in the Secretary of State, further proposed, that Mr. Adet should state, first, the parts of the treaty which he wished to be abolished: 2d, those parts which he wished to be corrected: and 3d, *any additions* which seemed to him desirable; But expressed the readiness of the Se-

cretary to adopt any other better mode of conducting the negotiation, if such occurred to Mr. Adet.

On the 20th of July, 1795, Mr. Adet mentioning his sickness, which for fifteen days had obliged him to abstain from business, replied on the subject of the negotiation in these words: "In a few days I shall have the honor of seeing you, and of taking the necessary measures in order to commence the business relative to the digesting of the new treaty and new consular convention."

From this detail, it must I conceive be no easy task to find any facts by which Mr. Adet's charge can be supported. What he affects to call "frivolous pretexts," are substantial reasons; and in respect to his own advances to treat, the conduct of our government manifests an eagerness to enter on the negotiation: certainly you will discover in it no disposition to elude or to procrastinate.

You will be pleased to observe, Sir, that the letter from the Secretary of State to Mr. Adet, explaining the manner in which they should proceed in the negotiation, is dated the 16th of July, and that Mr. Adet's answer, agreeing shortly to meet the Secretary, in order to take the necessary measures for commencing the business, is dated the 20th of July; yet in his note of November 15th, 1796, after having charged the Government of the United States "with eluding all advances made by the Republic for renewing the treaties of commerce, and excusing itself on the most frivolous pretexts," after acknowledging that the President had authorised the Secretary of State to negotiate, and that the latter had explained the manner of proceeding, he asks, "But at what time? When the ratification of the treaty concluded between Lord Grenville and Mr. Jay no longer permitted the undersigned to pursue that negotiation." I am sorry, Sir, in this place to call your attention to dates. The British treaty was not ratified until the 14th of August, 1795, that is, about a month after the plan of negotiating with Mr. Adet had been proposed to him by the Secretary of State, and twenty-five days after he had agreed to proceed in it. And if that ratification finally induced him to abandon the idea of negotiating a new treaty between France and the United States, it did not instantly produce this determination. He doubtless perceived that his own objections to the British treaty were obviated by the answer from the Secretary of State, and when he acknowledged the receipt of it, he had given up the right of judging of the treaty, whether it was good or bad I shall (says he in his letter of July 20th, 1795,) "transmit it (the Secretary's answer) to the French Government, together with my observations and the treaty. In such important circumstances, it is exclusively the province of my government to judge; and I cannot permit myself to decide at all." And then immediately adds—"In a few days I shall have the honor of seeing you, and of taking the necessary measures in order to commence the business relative to the digesting of the new treaty and new Consular Convention." The British treaty then did not obstruct the negotiation, the principles of which might have been agreed on, and the articles drawn into form, to be submitted to the respective governments: for that was all the respective negotiators were authorised to do.

Will the Ministers of the French Republic never cease to reproach us with "ingratitude?" If indeed "France wrought," as well as "guaranteed" the "independence of the United States," as Mr. Adet asserts, "at a time when she might, as the price of that very independence, have granted them less liberal conditions," our obligations are greater than we have hitherto imagined.—But it is time that these claims to our gratitude were investigated, and their extent ascertained. We have citizens yet alive who were actors and witnesses of the declaration of our independence, and of the efforts to maintain it, with their effects, prior to our treaty with France. But laying no stress on our recollections or consciousness, we will resort to the testimony of France herself.

France, by her minister, the Marquis de Noailles, having, in the declaration of the 13th of March, 1778, which I have already quoted, announced to the court of London the treaty of friendship and commerce she had formed with the United States; and that to maintain the commerce of his subjects with them, which was the object of that treaty, his most Christian Majesty had "taken eventual measures, in concert with the United States of North-America;" that court published a justificative memorial to vindicate to the world the war she had determined to wage against France. In the observations of the court of France on this British memorial, we find the following declarations on the part of France: "(21) While the ambassador of England put the King's patience to the strongest proofs, and while the court of London was constantly repeating denials of justice to his Majesty's subjects, at the same time that the British officers continued to desolate them on the sea, an event came to pass in America which essentially changed the face of things in that quarter of the world. This event was the defeat of the army under Gen. Burgoyne. The news of this unexpected disaster, which arrived in Europe in Nov. 1777, astonished the British Ministers, and must have the more sensibly affected them, *as it overthrew the plan they had laid for the reduction of the colonies.*" The observations then suggest that this great event induced, in the British Cabinet, the idea of conciliation with America, and of a coalition against the Crown of France, in revenge for the supposed aid rendered by her to the United States; and to gratify "their most dear and constant wish—that of humbling France." "(22) It was natural for the British Ministry, *unable to subdue her Colonies*, to seek to be reconciled to them, and to engage them to espouse her resentment. They might so much the more flatter themselves that they should succeed herein, as the proceedings of France with regard to American privateers, *and especially the dislike the King had at all times manifested to any engagement with the Congress*, must have given disgust and dissatisfaction to their deputies, and induce them, notwithstanding their well known aversion, to seek even in England, the safety of their country when they failed to find it in France.

(23) "The King, well informed of the plan of the court of London, and of the preparations which were the consequence of it, perceived that no more time was to be lost, if he would prevent the designs of his enemies; his Majesty determined, therefore, to take into consideration, *at length*, the overtures of the Congress."

(24) "The commissioners (from the United States) proposed to the King, a treaty of amity and commerce, and an alliance offensive and defensive, by which his Majesty should engage not only to acknowledge, simply and purely, the independence of the United States, but also to guarantee and defend it by force of arms. The King ordered an answer to be given, that he could indeed look upon the independence of the United States as existing; but that it did not belong to him to acknowledge it, because he had not any right to judge of it; neither could he guarantee it, *as he did not intend to enter into a war for its support*. His Majesty, in consequence, refused an offensive alliance, and confined himself to the *Treaty of Amity and Commerce*. But, as it was more than probable, that the court of London *HAD* formed a *design of attacking France*, his Majesty thought he ought to enter into an alliance with the United States, *eventual and purely defensive*. The stipulations contained in this second treaty are in substance, that *if France should be attacked by the court of London*, before the cessation of hostilities between that court and its colonies, then the King and the United States should mutually assist each other against the common enemy; that the King should guarantee the independence and sovereignty of the United States, and that he should not lay down his arms till it should be acknowledged by Great-Britain."

Thus it is manifest, that the United States were to be left still to fight their own battles, *unless Great-Britain should choose to increase the number of her enemies by attacking France*, in which case it would be as truly the interest of France as of the United States to make it a common cause.

(25) "This last treaty remained secret because it was not in force at the time of concluding it; but that of commerce was notified at the Court of London, March 15th, 1778." The first words of the notification are these: "The United States of North-America, *who are in full possession of Independence*," &c. The whole paragraph has been already quoted. The notification further expressed, "that the King, being determined to protect effectually the lawful commerce of his subjects, and to maintain the dignity of his flag, his Majesty has, in consequence, taken eventual measures, in concert with the United States of North-America." The court of London chose to consider this notification as a declaration of war, of which they accuse the King as being the author, and represent him as the violator of laws divine and human, &c. &c. "The act, however, which has drawn upon the King such odious imputations, has for its foundation *two incontestible truths*; the first, *that at the period of the 6th of February, 1778, the Americans had the public possession of their Independence*; the second, that the King had the right to look upon this independence as existing, without being obliged to examine the legality of it, and that no law forbade him to form connections with the Americans."

The observations then reciting, that the fruitless attempts of the colonies to obtain redress from their mother country, in the mode of supplication, had induced them to league together to maintain their privileges sword in hand; and soon after to publish the solemn act whereby they declared themselves independent, say [26] "This act, which

is of the 4th July, 1776, induced the court of London to give way to her resentment; she displayed her power to chastise the Americans and to reduce them by conquest. But what has been the fruit of their efforts? Have they not served to *demonstrate* to America, to all Europe, and to the court of London herself, her importance and the *impossibility of her ever hereafter bringing the Americans again under her yoke!*" That she had given this demonstration to America, is evident by the manner in which Congress received the *conciliatory bills*, hastily sent from the court of London to America, and communicated by Lord and General Howe. Congress were then uninformed of the treaties which their commissioners had lately concluded at Paris. Yet confident in the strength and spirit of their country, and of the inability of Britain to subdue it, they resolved [27] *unanimously* to reject these overtures for peace and conciliation, and to hold no conference or treaty with any commissioners on the part of Great-Britain, unless, as a preliminary, they withdrew their fleets and armies, or in positive terms acknowledged the independence of these states.

Again—" [28] It is sufficient for the justification of his Majesty, that the colonies, which form a nation considerable as well for the number of their inhabitants as for the extent of their dominion, have *established their independence*, not only by a solemn declaration, *but also in fact*; and that they have supported it against the efforts of their mother country. Such was in effect the situation of the United States *when the King began to negotiate with them*. His Majesty had full liberty of considering them as independent, or as the subject of Britain. He chose the first part, because his SAFETY, THE INTERESTS OF HIS PEOPLE, invariable policy, and above all the *secret projects* of the court of London, *imperiously laid him under the necessity*." The *secret projects* here referred to were those of reconciliation on terms which might satisfy the United States, and produce a re-union and coalition for the purpose of *falling upon France*. To avoid the risk of this combined attack, to avoid greater danger in future, by preventing the possibility of uniting again the great portions of the British Empire, *separated in fact*, and thus essentially to diminish its power, were the avowed inducements with the court of France to consider the United States as independent.

Having stated these things, they " [29] ask if there is a sovereign who, in the same situation with his Majesty, would not have imitated his example."

Again—(30) "He (the King of France) had the right to consider independent the confederate inhabitants of this immense continent, who presented themselves to him with this character, especially after their ancient sovereign had *demonstrated*, by efforts as continual as painful, the *impossibility of bringing them back to obedience*."

(31) "To complete the justification of his Majesty, nothing remains but to examine, whether what are called *reasons of state*, could have determined his Majesty to connect himself with the Americans. To treat this question with all the clearness of which it is susceptible, the political interest of France must be viewed under two different relations: the first respects the other powers of Europe; the second respects Great-Britain."

"In treating with the Americans, *after they became independent*, the King exercised the right inherent in his sovereignty, WITH NO OTHER VIEW than to put an end to the predominant power which England abused in every quarter of the globe." The observations then suggest, that by this conduct the King has essentially watched over the interest of all the sovereigns of Europe, "by contributing to restrain a power which has always carried to excess the abuse of her resources (32)."

The court of London having charged the King of France with ambition, and the project of *demolishing* the power of England, by his engagements with the Americans, the observations declare, (33) "Nothing more will be discovered in them [his engagements with the United States] on the most accurate scrutiny, than a diminution of this power—a diminution which England has herself provoked, by a conduct the most unjust and most irregular, and which the tranquility and happiness of Europe have for a long time required."

"(34) The most vigilant and consummate prudence could not devise adequate precautions against the enterprizes of such a power; so that the only means of being secured from it, was to seize the opportunity of diminishing it."

"(35) It may then be truly said, that on examination of the conduct of the King—it was not only *just* and *lawful*, but even *necessary*, as well for the *individual interest of France*, as for that of all Europe."

I will trouble you with but one more extract from the justificatory observations of the court of France.

"(36) To deceive the other nations with regard to the real motives which have directed the conduct of the King, the British ministry maintain that he entered into treaty with the Americans, not because he feared the secret views of Great-Britain, but because he foresaw that the Americans, defeated, discouraged, without support, and without resources, were about to return to their mother country; and that there was not a moment to be lost in re-animating and confirming them in their opposition. It was, without doubt, for the sake of this assertion, that the British ministry have thought it beneath the dignity of their sovereign to search for the period at which France formed connections with the United States; it might with greater truth be said that this research did not coincide with their plan of defence. The King is willing to spare the British ministry a task so disagreeable and embarrassing, by observing for them, that the conversations which led to the treaties of the 6th of February, 1778, were considerably posterior to the capitulation of Gen. Burgoyne. Now it is notorious, that this event elevated the courage and the hopes of the Americans, as much as it dejected the British nation, and principally the court of London. If then the King has listened to the propositions of Congress, *after this period*, so disastrous to the British, *it has not been, and could not have been for any other reason, but because he thought with the United States, that their independence was thenceforward irrevocable.*"

In these extracts from the observations of the court of France, we see an open avowal of her motives for entering into treaties with the United States during our revolution; but do such motives afford any strong claims to our gratitude? She rejoiced at the prospect of a final

separation of the thirteen colonies from Great-Britain: she saw them erected, by their solemn declaration, into independent states:—but, during near three years of our contest, she continued waiting for some fortunate event that should insure stability and ultimate success to our enterprize. This event took place in the capture of a whole British army. “Then the King listened to the propositions of Congress, because he thought with the United States that *their Independence was irrevocable.*” He then treated with the Americans, “*with no other view than to put an end to the predominant power which England exercised in every quarter of the globe. A diminution of this power (says the King) the tranquility and happiness of Europe have for a long time required: The only means of being secured from it, was to seize the opportunity of diminishing it: and he did seize it,*” because “*HIS SAFETY, the INTEREST OF HIS PEOPLE, invariable policy, and above all, the secret projects of the court of London imperiously laid him under the necessity.*”

After these repeated declarations on the part of France, that her only view in contracting engagements with the United States, was to diminish the British power, and thereby promote the safety and interest of her own people, and the tranquility of Europe—very unexpected indeed are the modern claims of boundless and perpetual gratitude!—Nevertheless, animated as we always have been with sincere desires to maintain those usful and friendly connections with France, which had their foundation in our revolution, we should have remained silent on these claims, had not the frequency and manner in which they have been urged compelled their discussion. We are not now disposed to question the importance of the aid we actually derived from France in the war of our revolution; nor to retract the grateful acknowledgements, that all America has, from that time, offered to that nation: we were in the habit of expressing our *gratitude* to her for the benefits which we received, although they resulted from her exertions to advance *her own interest*, and secure *her own safety*. But, if those benefits had been rendered from *pure benevolence*, from *disinterested good will to us*, and we had been remiss in acknowledging them, is it the part of generosity, of magnanimity, constantly to upbraid the receivers of their favors with ingratitude? Do not such reproaches cancel the obligations? But if for favors apparently generous, *substantial returns* are demanded, the supposed liberal act degenerates, and becomes a mercenary bargain.

If such only are the motives for our gratitude towards France at the commencement of her political and commercial connections with us in the midst of our war with Great-Britain, what more can we discover at the conclusion of that war? Let us examine.

In 1781, with the assistance of a French army by land and a powerful fleet by sea, a second British army was captured.

This event made even the British government despair of bringing the United States again under her subjection. The ministry was changed: and the parliament passed an act to authorize the King to make peace. In the summer of 1782, an agent on the part of Great-Britain repaired to Paris to negotiate with the Commissioners

of the United States. For sometime Dr. Franklin and Mr. Jay were alone at Paris. The commission to Mr. Oswald (the British negotiator,) authorized him to treat and conclude a peace or truce, with any commissioner or commissioners named, or to be named by the *colonies* or *plantations* of New-Hampshire, &c. (naming the thirteen,) or with any of them separately; with parts of them, or with any persons whatsoever. Mr. Jay was not satisfied with this commission to Mr. Oswald: The independence of the Thirteen States was nowhere intimated. Agreeable to their instructions from Congress to take advice of the Court of France, the Commissioners communicated Mr. Oswald's commission to the Prime Minister, the Count de Vergennes. The Count expressed his opinion that the commission was sufficient; that it was such an one as we might have expected it would be: "That an acknowledgment of our independence, instead of *preceding*, must in the natural course of things be the *effect* of the treaty." This opinion the Count continued from time to time to repeat. In short "it was evident the Count did not wish to see our independence acknowledged by Britain until they had made all their uses of us." Mr. Jay still continued unmoved. He conferred with Mr. Oswald, and "urged, in the strongest terms, the great impropriety, and consequently the utter impossibility of our ever treating with Great-Britain on any other than an *equal footing*; and told him plainly, that he (Mr. Jay) would have no concern in any negotiation in which we were not considered as an *independent people*."

It was on this occasion that Mr. Oswald communicated to Mr. Jay this article of his instructions:—"In case you find the American Commissioners are not at liberty to treat on any terms short of Independence, you are to declare to them, that you have our authority to make that cession: our ardent wish for peace disposing us to purchase it at the price of acceding to the complete independence of the thirteen colonies."

The British Ministry approved of the communication, but still were for treating with us as *Colonies*, and making an acknowledgment of our Independence *only an article of the treaty*. Mr. Jay's discernment discovered the source of the backwardness, at this time, in the British Court, to admit our Independence *previous* to the negotiating of the treaty, and mentioned it with his reasons to Mr. Oswald; who, far from contradicting Mr. Jay's inference, told him a fact which confirmed his opinion, that it originated in the court of France, and was communicated to that of London, by the British Commissioner then in Paris, to treat of peace between France and Great-Britain. Mr. Jay then explained to Mr. Oswald what he supposed to be the natural policy of the French court, and shewed him "that it was the interest of Britain to render us as independent on France as we were resolved to be on Britain." Mr. Oswald was convinced. Mr. Jay reminded him of the several resolutions of Congress, passed at different periods, not to treat with British Commissioners on any other footing than that of absolute Independence; and proposed to give to him in writing what he had before expressed in conversation—*his determination not to treat but on the footing of equality*. Mr. Oswald preferred having it in writing. Mr. Jay prepared the draught of a letter to be signed by him and Dr. Franklin,

expressing their determination to treat, but on terms of equality, as an independent nation; and exhibiting the reasons of this determination. Doctor Franklin thought the letter "rather too positive, and therefore, rather imprudent; for that, in case Britain should remain firm, and future circumstances should compel us to submit to their mode of treating, we should do it with an ill grace, after such a decided and peremptory refusal. Besides, the Doctor seemed much perplexed and fettered by the instructions from Congress, *to be guided by the advice of the French Court.* Neither of these considerations affected Mr. Jay. For as to the first, he could not conceive of any event which would render it proper, and therefore possible for America to treat in any other character than as an independent nation. And as to the second, he could not believe that Congress intended they should follow *any advice which might be repugnant to their dignity and interest.*"

Dr. Franklin's doubts prevented this letter being signed. Mr. Oswald was disappointed; and desired to see the draft. He saw it, and requested a copy of it. After taking time for consideration, Mr. Jay complied with the request. "For though unsigned, it would convey to the British ministry the sentiments and opinions he wished to impress, and it finally they should not be content to treat with us as independent, they were not yet ripe for peace or treaty with us. Besides, he could not be persuaded that Great-Britain, after what the House of Commons had declared, after various other acts of that Government, manifesting the intention to acknowledge it, would persist in refusing to admit our independence, provided they really believed that we had firmly resolved not to treat on more humble terms."

"With the copy of this draft, Mr. Jay gave Mr. Oswald copies of the various resolutions of Congress, which evinced their adherence to their independence. These papers Mr. Oswald sent by express to London, and warmly recommended the issuing a new commission, to remove all further delay."

Mr. Jay having afterwards ascertained, that the Count de Vergennes had sent a confidential agent to London—but whose journey was intended to have been a secret, for purposes evidently hostile to the interests of the United States—determined immediately to counteract the project, by an agent on whom he could rely to make to the court of London such representations as he thought the occasion demanded. He succeeded, and in about two weeks Mr. Oswald received a new commission in the form for which Mr. Jay had contended.

Mr. Jay remarked, that agreeably to the declaration of independence, the *United States*, as free and independent, had full power to levy war, conclude peace, contract alliances, &c. That by the act of confederation, the stile of the confederacy was declared to be THE UNITED STATES OF AMERICA, and by that act Congress were vested with the sole and *exclusive* right and power of determining on peace and war, and of entering into treaties and alliances. That being of right and in fact free and independent states, their Representatives in Congress granted a commission to certain gentlemen, of whom Doctor Franklin and he were two, *in their name* to confer, treat and conclude with ambassadors or commissioners, *vested with equal powers*, relating to

the re-establishing of peace, &c. But the first commission to Mr. Oswald was not equivalent: the *United States* were not named in it; nor *their* commissioners, who consequently were not the persons with whom Mr. Oswald was authorized to treat. And if the commissioners had consented to treat with Mr. Oswald under such a commission, what would have been the condition of the people of the United States in the interval, between the commencement of the negociation and the conclusion of peace? They would have been *not independent citizens*; but by our own acknowledgment, *British subjects*. Mr. Jay would not consent to this degradation, after we had maintained our independence six years, and after we had established it in fact, and after Congress had, by firm and repeated resolutions, refused to treat with Great-Britain, unless as a *preliminary*, she withdrew her fleets and armies, or else in *positive and express terms acknowledged the Independence of the United States*. At the same time Congress manifested their readiness to attend to such terms of peace as might consist with the *honor of independent nations*; but the honor of an *independent nation* forbade their treating in a *subordinate* capacity. Even the dignity of France, who four years before treated with us as an independent nation, required that we should not degrade ourselves when going to treat with her enemy. And why then should her ministers desire us to do it? Especially when the treaty of defensive alliance declared the "essential and direct end of it was to maintain effectually the liberty, sovereignty, and *Independence*, absolute and unlimited, of the United States, as well as in matters of *Government* as of *Commerce*." There were several reasons. The two parties, France and the United States, engaged not to lay down their arms until the independence of the United States should be attained. The explicit acknowledgment of their independence by Great-Britain would show that, for the essential and direct object of the alliance, there was no necessity of continuing the war. But since making this treaty of alliance with the United States, France had formed *other connections*, with whose views we had no concern, and for whose sake we were not bound to postpone the offered peace. We have seen the explicit avowal of the King of France, that he entered into a treaty with the United States with the view to promote the safety and interest of his kingdom and subjects, by diminishing the power of England; but in doing this, and eventually facilitating our independence on Great-Britain, it became apparent that there would be no objection to our dependence on France, particularly in "leaving the King master of the terms of the treaty of peace." And to keep us thus far dependent was manifestly the object of certain measures of the French court, calculated to deprive the United States of an immense western territory; of the navigation of the Mississippi; and of the fisheries, except on our own coast. A combination of facts and circumstances leave no doubt of the intentions of the French court as to the objects above mentioned. I cannot undertake the lengthy detail; and will only just mention in regard to *territory*, what was proposed and urged by one, whose official stations rendered it impossible to believe that he was expressing only his own sentiments, or that he was not acting by the direction of the French Court. He proposed what he called a conciliatory line be-

tween the United States and Spain. This was to begin at the division of East from West Florida; and run thence to Fort Toulouse, on the river Alabama; thence, by different courses, to Cumberland river, and down Cumberland to the Ohio. It was insisted, that the United States could have no pretensions westward of this line: That, "as to the course and navigation of the Mississippi, they followed the property, and would belong therefore to the nation to which the two banks belonged: the United States could have no pretensions, not being masters of either borders of the river;" and that, "as to what respects the lands situated to the northward of the Ohio, there was reason to presume, that Spain could form no pretensions thereto; their fate must be regulated with the court of London." It is certain, that originally Spain made no pretensions to any lands eastward of the Mississippi to the northward of the Floridas; and it is clear that the idea of her finally making the claim, was suggested by the court of France.

We are now prepared to understand the declarations made in the instructions to Citizen Genet, Minister Plenipotentiary from the French Republic to the United States: These instructions are dated the 4th January, 1793; and were published in December of that year, in Philadelphia, by Mr. Genet, in vindication of his extraordinary measures which had induced our government to desire his recall. In these instructions we find the following passages:—"The executive council has called for the instructions given to Citizen Genet's predecessors in America; and has seen in them, with indignation, that at the very time the good people of America expressed their gratitude to us in the most feeling manner, and gave us every proof of their friendship, Vergennes and Montmorin thought that it was right for France to hinder the United States from taking that political stability of which they were capable; because they would soon acquire a strength which it was probable they would be eager to abuse." "The same machiavelian principle influenced the operations of the war for independence; the same duplicity reigned over the negotiations for peace."

We see then, that in forming connections with us in 1778, the Court of France, the actual organ of the nation, had no regard to the interest of the United States: but that their object was, by seizing the occasion of dismembering the British Empire, to diminish the power of a formidable rival; and that when after we had carried on a distressing war for seven years, the great object for which we had contended, independence, was within our reach, that court endeavored to postpone the acknowledgment of it by Great-Britain, and eventually to deprive us of its fairest fruits—a just extent of territory—the navigation of the Mississippi, and the fishery.

Such being the motives and conduct of France, what inspired our truly grateful sentiments towards that nation? The ardent affection, the sincere friendship of Americans to Frenchmen? We were engaged in a common cause against Great-Britain—we received loans of money—we were aided by troops and ships in attacking and conquering the common enemy in the bosom of our country; and this association in war produced acquaintances and personal friendships; and ex-

periencing these benefits, we gave way to our feelings, without inquiring into the motives from which they were rendered.

But why are we so often reminded of the debt of gratitude? Is it really because more than *gratitude*—because *compensation* is expected to cancel it? If compensation is the object, the treaty of alliance has absolved the claim—"The contracting parties declare, that being resolved to fulfil, each on its own part, the clauses and conditions of the present treaty of alliance, according to its own power and circumstances, *there shall be no after claim of compensation*, on one side or the other, whatever may be the event of the war."

I am here naturally led to notice Mr. Adet's charge already mentioned—*That we have not offered to France the succors which friendship might have given, without compromising the government.*

If Mr. Adet had specified the kind of succors which might thus have been offered, we could better judge of the correctness of his assertion.

But is it true that we have rendered no succors to France? Read the following passages in the secretary of state's letter of the 16th of August, 1793, to Mr. Morris. "We recollect with satisfaction, that in the course of two years, by unceasing exertions, we paid up seven years arrearages and instalments of our debt to France, which the inefficacy of our first form of government had suffered to be accumulating; that, pressing on still to the entire fulfilment of our engagements, we have facilitated to Mr. Genet the effect of the instalments of the present year, to enable him to send relief to his fellow-citizens in France, threatened with famine; that in the first moment of the insurrection which threatened the colony of St. Domingo, we stepped forward to their relief with arms and money, taking freely on ourselves the risk of an unauthorized aid, when delay would have been denial—that we have given the exclusive admission to sell here the prizes made by France, on her enemies in the present war, though unstipulated in our treaties, and unfounded in her own practice, or in that of other nations, as we believe."

To this detail I have to add, that of all the loans and supplies received from France in the American war, amounting nearly to fifty-three millions of livres, the United States, under their late government, had been enabled to pay not two million and a half of livres; that the present government, after paying up the arrearages and instalments mentioned by Mr. Jefferson, has been continually anticipating the subsequent instalments, until in the year 1795, the whole of our debt to France was discharged by anticipating the payment of eleven millions and a half of livres; no part of which would have become due until the 2d of September, 1796, and then only one million and a half; the residue at subsequent periods; the last not until the year 1802.

There remain yet various passages in Mr. Adet's notes on which some observations are to be made.

In my letter of the 1st November last, in answer to Mr. Adet's note of October 27th, in which he communicated the decree of the Executive Directory of the 2d July last, declaring that the flag of the Republic of France should treat the flag of neutrals in the same manner as

these shall suffer it to be treated by the English, I asked an explanation of the decree; mentioning the circumstances which excited doubts. There seemed to be sufficient cause for inquiry. Had the decree referred to the *past* captures by the English, our knowledge of *them* would have been some guide in forming our opinion of the threatened captures by the French; but the operation of the decree was to depend on the *future* conduct of the English: the French were to treat the flag of neutrals as these *shall* suffer it to be treated by the English. As this could not be ascertained beforehand, we wished to know whether the restraints then exercised by the British government were considered as of a nature to justify a denial of those rights which were pledged to us by our treaty with France? Whether the orders had actually been given to capture the vessels of the United States? And if given, what were the precise terms of those orders? Mr. Adet, in his reply, says, that I appear not to have understood either the decree of the Directory or his note which accompanied it. The meaning of the decree is certainly not very obvious. The manner of executing it, was declared to depend on a contingency—the future conduct of the English. How were the French cruizers, in the four quarters of the world, to determine what was the conduct of the English at any given time? If he could have furnished a copy of the orders actually given to French armed vessels, under the decree, we might have seen clearly what were the intentions of the Directory. If we are to take the practice of the French armed vessels, and some of the French tribunals, as the true illustration of the decree, Mr. Adet's own explanation will be very defective.

He has specified only two cases, the taking of English (or other enemy's) property on board American vessels, and the seizure of all the goods classed as contraband in our treaty with Great-Britain. In the case of contraband goods, the seizure of them is lawful only when they are destined to the ports of their enemies; and the *contraband goods only* are liable to confiscation. But the special agents of the Directory in the West-Indies order the seizure of all vessels having on board contraband goods, no matter whether destined to an enemy's, or to a neutral, or even to a French port; and when seized, they confiscate not merely the contraband articles, but all other goods, and the vessel herself in which they are laden. They also assign in their decrees of confiscation another cause of capture and condemnation—that the American vessel has sailed to or from a port in possession of the English. We are not informed that the English take any neutral vessels for this cause. We have heard of several American vessels being captured and confiscated by the French, merely because they had not a sea-letter; when no doubt could have been entertained of the property being American. Yet it is conceived that the want of a sea-letter was never intended to exclude other proofs of property.

Further, ought we to have imagined that the executive directory intended to leave it to the discretion of every privateer, and of every inferior tribunal, to judge what at any time *subsequent* to their decree was the *actual* treatment received by American vessels from the British? Ought we to have imagined that the decree was formed in such inde-

finite terms on purpose to give scope for arbitrary constructions, consequently for unlimited oppression? Ought we to have imagined what Mr. Adet has himself declared to be the meaning of the decree, that the French armed vessels were not to content themselves with capturing American vessels having English property or contraband goods on board, and getting such property and goods condemned by their tribunals; but if any English commanders were to practise "*vexations*" towards Americans, that Frenchmen were to do the same? Ought we to have imagined that the directory intended the citizens of France should be encouraged to take revenge on their friends for the outrages of their enemies? And what is to limit these vexations? If one English commander in a hundred, perversely and wantonly abuses his power, is every French officer to become his rival in dishonor? Or if we are to suffer only measure for measure, (and surely the decree goes not beyond this) who is to designate the every hundredth French officer who is to be the instrument of similar oppression?

But French armed vessels are to make all these captures in violation of the treaty, and we are to suffer all these vexations in violation of reason and humanity, while we endure them from the English "without any efficacious opposition!" And what opposition will be deemed *efficacious*? For all captures made by the British contrary to the law of nations we have, agreeably to that law, demanded satisfaction. The British have engaged to make us satisfaction; and commissioners are now sitting to liquidate those demands—What opposition could have been more efficacious? What further opposition can be lawful?

Instead of further comments on this subject, let me present to you some passages in Mr. Adet's letter of the 14th of July, 1795. (37) In this letter he communicated to the secretary of state the decree of the committee of public safety of the 3d of January, 1795, repealing the 5th article of the decree of the 15th of November, 1794. (38) The latter violates our treaty by subjecting the property of the enemies of France on board American vessels to capture, and by adding to the list of articles contraband; It was therefore repealed by the former. Mr. Adet seized this occasion to make the following declaration: "You will see, Sir, (said he) in both [the decrees] the undisguised disposition and sincere desire of the French government religiously to observe the engagements it has contracted with its allies, and its readiness to redress infractions which have never taken place but from the impulse of circumstances. It is amidst her triumphs that the republic loves to give this striking mark of its fidelity. Victorious France knows no other concern than that of justice,—no other diplomatic language than that of truth."—To this truth, to this justice, to this fidelity, we now make our appeal.

From the stile of Mr. Adet's complaint of the British being *suffered* to arm in our ports, it might be imagined the instances were numerous, None were *permitted*; the *actual* armaments were few; and are as old as the year 1793, and were represented by Mr. Genet to the secretary of state.—(What answer (asks Mr. Adet,) did the government give to the representations of the Minister of the French Republic in this respect? It is said that these vessels sailed too suddenly; that it was

not able to cause them to be stopped." The answer was given by the secretary of state in different words. (39) "Those from Charleston and Philadelphia have gone off *before it was known* to the government, and the former indeed in the first moments of the war, and before preventive measures could be taken in so distant a port." In the case of the *Trusty*, Capt. Hale, at Baltimore, the governor of Maryland having been informed that she had been *buying guns*, had given orders to examine the fact; "but she got off before the officer could get on board, having cleared out three or four days before." I have not observed that Mr. Genet ever renewed his complaint with regard to any of these vessels, whence I suppose he was satisfied with the answer: as indeed he ought to have been. The two English vessels that sailed from Philadelphia, escaped even the vigilance of the French consul; (40) both had departed many days before he had been informed of them. This is stated by the consul himself in his report of the 21st June, 1793, to Mr. Genet. And yet the government is now charged by Mr. Adet with violating the treaty, because it did not stop them! Although the officers of the United States had been required to be watchful, and to report all illegal armaments in our ports, yet it was natural for the government to expect to derive information from the French consuls, who, doubtless, were charged by their own government to be particularly vigilant in regard to all attempts at such armaments by the enemies of the Republic. Mr. Adet remarks, that "some inhabitants of the United States had aided in these illegal armaments of the enemies of France;" and asks, "what measures were taken against them? Was any search made to discover them—to prosecute them? Never."—Yet the very letter from Mr. Genet to the secretary of state, in which, and its inclosures, Mr. Adet has found this subject of complaint, suggests a different conclusion: "I learn with pleasure (says Mr. Genet,) by your letter of the 23d of this month, (June, 1793,) that the government of Georgia have caused to be stopped a vessel armed in that state, for the purpose of cruising against the French, and that the persons interested in this vessel will be prosecuted." (41)

I shall say but a few words on the subject of the letters of which Mr. Adet complained that they remained unanswered. The first (of September 29th, 1795) contained those reproachful insinuations which were recited in my letter of the 1st of November last. Why were these introduced by him if they were not to be applied? An answer was draughted on the subject of his letter, with animadversions on those insinuations: but desiring to avoid irritations, the answer was not sent. It was deemed of the less consequence, seeing, in my letter to Mr. Munroe, of the 12th of September, 1795, the sentiments and reasonings of the government on that and other subjects, relating to France, had been fully expressed, to enable him to make immediate communications to the French government itself; and it was hoped, that the information given in that letter, and in others written to him the preceding summer, would have furnished materials (and that these materials would have been timely used) for such representations as would have satisfied the French government, that the United States, in forming the treaty with Great-Britain, had only exercised an indis-

putable right; and neither by that treaty nor any other act, had infringed a single article of our treaties with France.

On the subject of the impresses of our seamen mentioned in Mr. Adet's letters of March and April, 1796, I shall only add, that nothing was more notorious than that those impresses had excited universal resentment in the United States, and been the subject of repeated remonstrance from our government to the British court. Thus, in Mr. Pinckney's note to Lord Grenville, in August, 1793, which was published here that year, in the same collection of state papers with Mr. Jefferson's letter of September 7th, (42) which Mr. Adet thus quoted, and on the 5th page next succeeding it, we find the following: "Under this head, it may be observed, that for want of arrangements being made for the security of American seamen in the ports of this country, (England) they are subject to the various hardships Mr. Pinckney has so frequently detailed to Lord Grenville." And in the next page, in his letter to Mr. Jefferson, Mr. Pinckney says—"The protection afforded our seamen remains also on the same footing; they (the British government) profess a willingness to secure to us all real American seamen, when proved to be such; but the proof they will not dispense with." To remove, as far as possible, the embarrassments arising from this cause, and more effectually to protect our seamen, was the object of a bill pending in Congress, and the subject of public debate, at the time I received Mr. Adet's letters. This bill was passed into a law.

All these acts demonstrated that the government did not assent, but, on the contrary, that they resisted the impressment of American seamen; and this resistance has been continued: consequently we cannot be charged on this ground with a violation of our neutrality.

Among the former subjects of complaint, not now renewed by Mr. Adet, is that against the government for permitting the purchase and exportation of horses, by British agents, in the course of the last winter and spring. The correspondence on this subject is lengthy; and yet the question lies within a very narrow compass.

Perhaps no rule is now better established, than that neutral nations have a right to trade freely with nations at war; either by carrying and selling to them all kinds of merchandize, or permitting them to come and purchase the same commodities in the neutral territory; in the latter case, not refusing to one power at war what it permits another to purchase, with this exception in respect to articles contraband; that if the cruizers of one of the belligerent powers meet at sea with neutral vessels, laden with such articles, destined to the ports of their enemies, the neutral vessels may be captured, and the contraband goods will be lawful prize to the captors; but the residue of their cargo, and the vessels themselves are to be discharged.

But if there were any doubt on this point under the law of nations, there can be none in relation to France and the United States; because this matter is specially regulated by their treaty of commerce. This treaty, so far from *restraining* the trade of either party remaining neutral, while the other is engaged in war, *provides regulations agreeably to which it should be conducted.*

The 12th and 13th articles authorized either party that is at war, to stop the neutral merchant vessels of the other destined to the ports of an enemy, upon just grounds of suspicion, concerning the voyage or the lading. If, on examining the ship's papers, it appears there are contraband goods on board, "consigned for a port under the obedience of his enemies," she may be carried into port, and the contraband articles may, by regular proceedings in the admiralty, be confiscated: "saving always as well the ship itself, as any other goods found therein, which, by this treaty, are to be esteemed free: neither may they be detained on pretence of their being, as it were, infected by the prohibited goods, much less shall they be confiscated as lawful prize."—It further provides, that, if the master of the neutral ship shall be willing to deliver the contraband goods to the captor, and the latter receives them, then is the neutral ship to be forthwith discharged, and allowed freely to prosecute her voyage. The 23d article goes further;—if the neutral ship shall have on board the *enemies* of the other, "they are not to be taken out unless they are *soldiers in actual service*."

These articles are so explicit, it may seem strange that a doubt should arise concerning them. I presume no doubt did arise: for Mr. Adet overlooked these provisions of the treaty, demanded that the government should stop the exportation of horses by the British, upon the principle that it was a neutral duty required by the law of nations. An answer was given to his demands, in which the regulations of our treaty with France were particularly brought into view, as well as the rules of the law of nations. Mr. Adet, however, after some time renewed his claims; but again kept the treaty out of sight. An answer was given to these renewed claims; and we heard no more of the subject until the French privateers in the West-Indies began to capture American vessels which had *horses* on board. You will find, among the documents on this subject, the copy of a "decree of the citizens Victor Hughes and Lebas, the special agents of the Executive Directory in the Windward Islands, condemning an *American vessel* and her *entire cargo*, for having a small number of *horses* on board—not bound to their *enemies*, but to a neutral port. And the special agents ground their decree on the advice they received from Mr. Adet, under the date of the 4th Messidor, being July 2, 1796.—This vessel and cargo were thus condemned without the sight of a single paper belonging to her: the master had them in his pocket, and would have brought them home, but for the recollection of the interpreter, some hours after the sentence of condemnation had been passed. These citizens exercise indeed a very brief authority. The process in the case of a second American vessel, which, to complete her lading, had taken on board nineteen horses, but which was also bound to a neutral port, was in this form. The captain having come before one of the agents, he, without any previous examination or hearing, addressing himself to the captain, pronounced sentence in these words:—"I have confiscated your vessel and cargo"—closing the sentence with opprobrious language.

Mr. Adet, on the 18th of May last, revived his predecessor's claim of *right* by treaty to sell their prizes in our ports. This occasioned

the correspondence on this subject, which you will find among the documents collected on this occasion. He contents himself, however, with considering it as a right granted not positively, but by *implication*; that is, because the treaty *forbids* the *enemies* of *France* to sell their prizes in our ports—therefore, it *grants* to *her* a right of selling her prizes. As if my friend's *denial* of a favor to my *enemy*, was in fact a *grant* of the same favor to *me*.—The simple statement of the ground of the claim would seem sufficient to shew that the treaty will not support it. That sales of French prizes have been at all permitted, has been owing to the *indulgence* of the government. This indulgence was continued until it interfered with a new positive obligation: an obligation precisely the same that France herself contracted eight years subsequent to her treaty with us, *and with the same power*. This obligation is found in the 24th article of our treaty, and the 16th of the French treaty, with *Great-Britain*. Thus, France and the United States alike engaged to permit no enemy of Great-Britain to arm privateers in their ports, or to sell their prizes there, or in any manner to exchange them. Consequently, had France remained at peace, and we engaged in a war with Great-Britain, our privateers would not be permitted to sell their prizes in French ports. And by the maritime law of France, (43) prizes, except they are taken from her enemies, can stay in her ports no more than 24 hours, unless compelled by tempest to remain longer; and the sales of such prizes are forbidden under severe penalties. But notwithstanding the certainty of our right to forbid the sales of prizes in our ports, and notwithstanding the express legal command of the Chief Justice of the United States, holding a circuit court in South-Carolina, in May last, prohibiting the sale of a particular prize (the British ship *Amity*,) at Charleston—the French agent sold the prize vessel, and the sale received the formal sanction of the French consul. Yet, even this affair has been made a subject of complaint by Mr. Adet, because the collector of that port refused a clearance to the prize vessel thus sold in defiance of the authority of the United States; and because he also delayed, until, in a new case, he should get advice, to permit the exportation of the cargo of the prize ship, which, on a survey, had been reported to be irreparable.

Indeed, the French Minister has discovered an aptitude to complain. I may cite as instances his letters of the 9th of January and 3d March, 1796; the former because the colours of France, which he had presented to the United States, were not permanently fixed and displayed before Congress: the latter, because some printers of Almanacks, or other periodical publications in the United States, in arranging the names of the foreign Ministers and Agents resident among us, had placed those of Great-Britain before those of France and Spain. Mr. Adet desired my declaration in writing, that the government of the United States had no concern in printing the works in which the agents of the French Republic were registered after those of Great-Britain, and that the works themselves might be suppressed. I gave him an answer in writing with my consent to his publishing it in the newspapers, agreeably to his request. The answer states, that in matters of this kind the government did not and could not interfere. With re-

gard to the colours, I must observe, that in what concerns our foreign relations, the President being the sole Representative of the People of the United States, they were properly presented to him. He received them with all possible respect, and directed them to be deposited with our national archives, that both might be preserved with equal care.

It remains to notice a summary of complaints exhibited by M. De la Croix, the French Minister for foreign affairs, to Mr. Munroe, our Minister at Paris, under the date of March 9th, 1796, to which the latter returned an answer, under the date of March 15th. These were inclosed in Mr. Munroe's letter of the 2d of May, and received at the department of state on the 19th of July. Copies of both papers, and an extract of so much of his letter as relates to this subject, are among the documents now collected.

First complaint—The inexecution of treaties. 1st. The courts of justice have taken, and still take cognizance of prizes brought by French privateers into the ports of the United States.

2d. English ships of war have been admitted into those ports, even in cases prohibited by the 17th article of the treaty; that is, when they have made prizes on the French Republic or its citizens; and have also conducted thither their prizes.

3d. The consular convention has, in two points, become illusory. 1st. For want of giving to the consuls the means of having their decisions executed in all disputes between Frenchmen, of which the consuls have the exclusive cognizance: and, because the judges charged with issuing warrants for apprehending French mariners who desert, require the original roll of the crew to be first produced.—4th. The arrest of the corvette *Le Cassius* and her captain.

Second complaint—The impunity of the outrage committed on the Republic in the person of its Minister, the Citizen Fauchet, by the English ship *Africa*, in concert with the Vice Consul of that nation, within the waters of the United States.

Third complaint—The Treaty concluded in Nov. 1794, between the United States and Great-Britain.

Excepting the second complaint, relative to the attempt of the English ship *Africa* to seize Mr. Fauchet and his papers: and the 3d article under the first complaint relative to the Consular Convention, all the charges in this summary have been already examined, and we think proper to be unfounded.

As to the Consular Convention, many inconveniencies would attend the giving to the Consuls a jurisdiction to the extent contended for on the part of the French Republic, to be exercised by French Consuls in the United States, and consequently by American Consuls in France. The inconveniencies are manifestly so great as to require very explicit language in the Convention of the two nations on this subject, to authorize the conclusion that such an enlarged jurisdiction was intended. It would be to erect in foreign countries complete courts of justice, with effectual process to compel the appearance of parties and witnesses, and to execute their decisions. And as the transactions in commerce and navigation could not in the nature of things be confined to the foreigners alone, the citizens of the country must often be neces-

ary witnesses to those transactions, and of course rendered amenable to this foreign jurisdiction in their own country; whereas the jurisdiction demanded is only of French Consuls over French citizens in the United States; and reciprocally of American Consuls over the citizens of the United States in France. From these considerations a presumption would arise, that the jurisdiction contemplated in the Consular Convention was to be merely *voluntary*, but at the same time *exclusive of the courts of the country*. An examination of the Convention we believe will support this and no other construction. The 12th article provides, that all differences and suits between Frenchmen in the United States, and between citizens of the United States in France, and particularly all disputes between seamen and their captains, and between captains of different vessels of either nation, shall be determined by the respective consuls, either by a *reference to arbitrators*, or by a summary judgment, and *without costs*. "No officer of the country, civil or military, shall interfere therein; or take any part whatever in the matter."—This last clause alone would seem sufficient to repel the claim we are considering. Sheriffs, marshals, and their deputies, cannot aid in the execution of consular decisions, because they are "officers of the country," expressly forbidden to "take any part in the matter." But was it meant that the laws should give Consuls the power to appoint such executive officers of their own nation? We find no such thing in the convention. On the contrary, in the case of deserters from vessels mentioned in the 9th article, whom the Consuls are authorized to cause to be arrested, they are expressly directed to apply in writing to the "courts, judges, and officers, competent" to make the arrests: meaning the courts, judges, and officers, of the country where the Consuls reside. Besides, if power could be given to Consuls to appoint officers to execute their decisions, these officers must of course have their fees of compensation to be paid by one or other of the parties: but the 12th article declares that the Consular judgments shall be "without costs."—To these observations I subjoin the deliberate opinions of two respectable lawyers, Mr. Harrison, of New-York, and Mr. Bradford, the late Attorney-General of the United States. "I have considered the 12th article of the Convention between his late Most Christian Majesty, and the United States of America; and also the act of Congress concerning Consuls and Vice-Consuls, as far as it prescribes the duty of marshals of the United States; and it is my opinion, that the marshals are not bound by law to execute any sentence of a French Consul, arising under the said article.

RICHARD HARRISON,

Attorney, United States, for the New-York District.
New-York, 6th March, 1794."

"I have considered the Convention; and act above referred to, and I perfectly coincide in the opinion given by the Attorney of the United States for the district of New-York.

WM. BRADFORD.

Philadelphia, March 14th, 1794."

The other complaint under this head is, that the judges, who are charged (by an act of congress,) to issue warrants of arrest against deserters from French vessels, have required the *original* ship's roll to prove that the men alledged to have deserted, were a part of the crew; in contempt of the 5th article, which admits in the tribunals of both countries copies certified by the consul.

If we look at the 9th article of the consular treaty, we shall see that the consuls who demand the arrests of deserters from vessels of their nation, must prove "by an exhibition of the registers of the vessels or ships' roll, that those men were a part of the crew." It is apparent, that the original roll, and not a copy, is here referred to; nor indeed is the contrary pretended; but it is said that the 5th article admits certified consular copies as evidence in the courts of both nations. But the 5th article appears to have no relation to the subject of the 9th. It stipulates that "the consuls respectively shall have the exclusive right of receiving in their chancery, or on board of vessels, the declarations, and all other acts which the captains, masters, crews, passengers, and merchants of their nation may choose to make there, even their testaments and their disposals by last will; and the copies of *the said acts*, duly authenticated by the said consuls, under the seal of their consulate, shall receive faith in law, equally as their originals would." The ship's roll (or shipping paper) of a vessel's crew is not an act to be done before the consul, but the evidence of a private agreement between the captain of a vessel and his crew; and when he alleges that any of them have deserted, the 9th article requires this original evidence of the fact to be produced to the judge, as the ground on which he shall issue his warrant to arrest them. And this is the construction put on this article by the judges; and for ought I know without any diversity of opinion. The difference alledged by Mr. Fauchet in one of his letters to the secretary of state, I have inquired into; and find he was under a mistake. And the mistake arose probably from this circumstance, that, when from the information of the consul, there was danger that the deserter would wholly escape unless instantly apprehended, the judge has issued his warrant to arrest and bring before him the alledged deserter; but when brought, that judge has not committed the man, or delivered him to the Consul, unless the original roll was produced to prove him one of the ship's crew.

As to the outrage against Mr. Fauchet, by the Africa man of war, in attempting to seize him and his papers within the jurisdiction of the United States, and Captain Home's insult on their authority, I do not know what measures more efficacious could have been taken by the executive than those which were adopted, to obtain satisfaction. After waiting a reasonable time for explanations on the part of Capt. Home, and of Mr. Moore, the English vice-consul, and receiving none, the President revoked the exequatur of the vice-consul, and desired the governor of Rhode Island, where the Africa had been lying, to communicate to Capt. Home the demand of the President—That he should immediately remove from a station within the jurisdiction of the United States, where he had violated their rights; and further

to make known to him, that in forty-eight hours after the requisition should be communicated to him, all intercourse between the citizens of the United States and his ship should be forbidden. It is very true that the exequatur of the British vice-consul was withdrawn expressly for his knowingly transmitting to the governor of Rhode Island a most insulting letter from Capt. Home; because, although he was on board the *Africa* when the attempt was made against Mr. Fauchet, the President had no evidence of his co-operation. The minister of the United States in London was directed to represent to that court the conduct of Capt. Home, and to demand his exemplary punishment. It was not to be expected that he would be judged unheard; and consequently much delay must have ensued. From her station on the coast of North-America, the *Africa* went to the West-Indies. Seeing sometime since by an article, in the newspapers, that the *Africa* was returning to England, our minister in London was reminded of this affair, that the demand of satisfaction might be renewed.

Although the subject of M. De la Croix's third and last complaint (the British treaty) has been already discussed, allow me here to make a few remarks. He says, "it will be easy to prove, that the United States, in this treaty, have knowingly and evidently sacrificed their connections with the Republic, and the most essential and least contested prerogatives of neutrality."—The *reverse* of what the minister considers so *easy to prove*, we think has been *demonstrated*. Our legally binding connections with France we always considered as being formed by our treaties; and we say, with confidence, that we have not "knowingly" violated these in a single article. If individuals have at any time infringed them, the government has been sincere and diligent in its endeavors to redress the wrong. If the ties of affection, of warm, enthusiastic friendship have been weakened, the cause is to be sought for not in the acts of the American Government, which have been constantly directed to the preservation of our peace with all nations. These ties did not depend on treaties. It was our friendship to France, contracted during *our* revolution, and our partiality for the cause of liberty and self-government for which she engaged in *her own*, that made us endure numerous injuries almost without complaining. We were not willing to ascribe to the Republic the outrages of her Ministers against the laws, the sovereignty, and the dignity of the United States, or the exceptionable stile of their communications. Even when, for such flagrant aggressions, often repeated, we desired the recall of one of her Ministers, it was done in the most soothing language, and, in the meantime, lest the interests of the Republic should suffer, he was permitted to exercise his functions in all cases in which those interests could be affected. When his successor arrived, he officially requested, that the offending minister might be apprehended, that he might be sent to France: but the government, satisfied by his removal, declined the measure. Some irritations were experienced from that successor. What sensations have been produced by Mr. Adet's notes, your own feelings, on the perusal, will enable you to judge. If he intended to excite the general indignation of our citizens, he is not

disappointed: but it is presumed this was not the object. After an exhibition of complaints, in a stile so exceptionable, he could add but one more improper act, that of publishing his notes in the newspapers: he had scarcely transmitted them to the executive, before he forwarded them to the printer for publication.

From the foregoing statement we trust it will appear, that there has been no attempt in the government of the United States to violate our treaty or weaken our engagements with France: That, whatever resistance it has opposed to the measures of her agents, the maintenance of the laws and sovereignty of the United States, and their neutral obligations, have rendered indispensable: That it has never acquiesced in any acts violating our rights or interfering with the advantages stipulated to France; but on the contrary, has opposed them by all the means in its power: That it has withheld no succors from France that were compatible with the duties of neutrality to grant: That, as well by their independent political rights, as by the express provisions of the commercial treaty with France, the United States were at full liberty to enter into commercial treaties with any other nation, and consequently with Great-Britain: That no facts manifesting a partiality to that country, have been, and I add, that none such can be produced.

Of the propriety and justness of these conclusions you will endeavor to satisfy the French Government; and conscious of the rectitude of our own proceedings, during the whole course of the present war, we cannot but entertain the most sanguine expectations that they will be satisfied. We even hope that this has been already accomplished, and that you will be saved from the pain of renewing a discussion which the government has entered upon with regret. Your mission and instructions prove its solicitude to have prevented this necessity, and the sincerity of its present hopes, that your endeavors, agreeably to those instructions, "To remove jealousies and obviate complaints, by shewing that they are groundless—to restore confidence so unfortunately and injuriously impaired—to explain the relative interests of both countries, and the real sentiments of your own," have been attended with success. And as a consequence thereof, we rely on the repeal of the decrees and orders which expose our commerce to indefinite injuries, which militate with the obligations of treaties, and our rights as a neutral nation.

I have the honor to be,

With great respect,

Sir,

Your most obedient servant,

Timothy Pickering.

References in the foregoing Letter.

- (1) Book 3. S. 115.
- (2) Valin, p. 250, Reg. Oct. 21, 1744, Art. 5.
- (3) Valin, vol. 2. p. 252, 253.
- (4) State papers, p. 50, 53, 55.
- (5) B. 7, S. 112.
- (6) Valin, vol. 2, p. 264.
- (7) Hist. Armed Neutrality, p. 77.
- (8) Marten's Treaties, vol. 2. p. 103.
- (9) Hist. Armed Neut. p. 147—150.
- (10) Treaty of Alliance, Art. 2.
- (11) Letter, June 8, 1795.
- (12) State papers, p. 75.
- (13) State papers, p. 77.
- (14) Secretary of State to Mr. Fauchet, Sept. 7, 1794.
- (15) Letter from the Secretary of State to Mr. Morris, Aug. 16, 1793, State papers, p. 62.
- (16) State papers, p. 15.
- (17) State papers, p. 68.
- (18) Letter to Mr. Morris, Aug. 16th, 1793, State papers, p. 58.
- (19) State papers, p. 68.
- (20) Mr. Adet has since corrected this date, the decree intended being dated Feb. 19, 1793. This is already published with the state papers of that year, page 15.
- (21) Obs. p. 60.
- (22) Obs. p. 64.
- (23) Obs. p. 66.
- (24) Obs. p. 67.
- (25) Obs. p. 69.
- (26) Obs. p. 73.
- (27) Journals of Congress, 22d April, 1778.
- (28) Obs. p. 77.
- (29) Obs. p. 78.
- (30) Obs. p. 82.
- (31) Obs. p. 88.
- (32) Obs. p. 89.
- (33) Obs. p. 90.
- (34) Obs. p. 91.
- (35) Obs. p. 92.
- (36) Obs. p. 95, 96.
- (37) 14th Nivose 3d year.
- (38) Brumaire 3d year.
- (39) State papers, p. 41, June 30, 1793.
- (40) State papers, p. 41.
- (41) State papers, p. 40.
- (42) Mr. Adet by mistake dates it September 13th.
- (43) Valin, vol. 2, p. 272.



